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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.403/95

Date of order: 9.7.1997

Laxmi Narain

: Applicant

Vs.

1. The Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. The Divisional Railway Manager, Western Railway, Jaipur.

...Respondents.

Mr.P.P.Mathur - Briefholder of Mr.P.H.Mathur, counsel for applicant.

Mr.S.S.Hasan - Counsel for respondents.

CORAM:

Hon'ble Mr.O.P.Sharma, Administrative Member

Hon'ble Mr.Ratan Prakash, Judicial Member.

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri Laxmi Narain has prayed that the respondents may be directed to produce the entire record relating to the appointment of the applicant on the post of Hamal, Sr.Hamal and Peon and after perusing the record the Tribunal may direct the respondents to treat the applicant as having been initially appointed on the post of Peon. He has further prayed that the decision of the respondents to treat the applicant as appointed on the post of Peon after having been transferred at his own request from the post of Hamal be quashed. He has further prayed that the order dated 2.8.95 (Annx.A1) by which his prayer regarding assignment of appropriate seniority in the post of Hamal was rejected may also be quashed. The last prayer of the applicant is that the respondents may be directed to pay the entire arrears of salary which the applicant is entitled to get w.e.f. 5.10.73 and that the respondents may be further directed to fix the pay of the applicant on the basis that he has been working in the pay

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scale Rs.200-250(R)/775-1025(RP) w.e.f. 20.5.1978.

2. By an order passed by the Tribunal on 3.1.96, it was held that the application would be admitted for adjudication only in so far as the issue of seniority is concerned and that the applicant's claims for arrears of salary, etc., were barred by limitation and could not be adjudicated by the Tribunal. Accordingly, only the issue of seniority in the present application is being adjudicated upon.

3. The basic case of the applicant is that a direction was issued by the respondents Nos.1 & 2 to appoint the applicant on the post of Peon by order dated 16.11.78. Thus, according to the applicant he has been working on the post of Peon continuously from 16.11.78. Therefore, seniority to him should be assigned on the post of Peon with effect from that date.

4. The respondents have opposed the application stating that the applicant was appointed as Hamal in the grade of 196-232(R) w.e.f. 23.5.78 vide order dated 20.5.78 and was given senior grade of Hamal, scale Rs.200-250(R) w.e.f. 1.8.82. The applicant had himself applied for posting as Peon and it was of his request that he was appointed as Peon in scale Rs.196-232(R) on the basis of his application dated 20.2.84. The date of order of his posting as Peon is 22.2.84. Therefore, he has been correctly assigned seniority in the post of Peon from the date of his appointment. The respondents have further stated that there is separate seniority for the post of Hamal and that of Peon. The applicant has also filed an additional affidavit which has been perused.

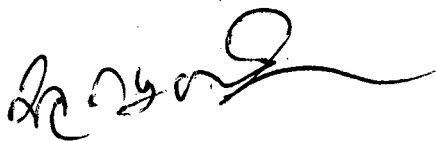
5. We <sup>had</sup> ~~have~~ directed the respondents to produce record relating to the appointment of the applicant as Peon. These have been produced and have been perused by us. We have also heard the learned counsel for the parties and have gone through the material on record.

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6. A perusal of the record shows that the applicant was appointed on the post of Hamal by an order passed in May 1978 on an application dated 20.5.78 made by him. Thereafter, the applicant made an application dated 20.2.84 praying that since he was the senior most Hamal, he wanted to come over <sup>to</sup> the post of Peon. Accordingly, by order dated 22.2.84 the respondents appointed the applicant to the post of Peon in scale Rs.196-232(E), treating his appointment as at his own request. We are satisfied on a perusal of the record produced before us that the applicant was initially appointed as Hamal in 1978 and that it was at his own request in February 1984 that he was appointed as Peon vide order dated 22.2.84. Therefore, the seniority has been correctly assigned to the applicant on the basis of his aforesaid appointment. In these circumstances, the O.A is dismissed. No order as to costs.

7. A copy each of the documents referred to above namely his application for appointment to the post of Hamal, order of initial appointment to the post of Hamal in May 1978, request of the applicant for appointment to the post of Peon and the order appointing the applicant to the post of Peon, have been taken on record.



(Ratan Prakash)

Judicial Member.



(O.P. Sharma)

Administrative Member.