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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.526/95

Date of order:29.8.1997

K.C.Sethi

: Applicant

Vs.

1. The Union of India through the General Manager, Western Railway, Church Gate, Bombay.

2. Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.

3. Divisional Personnel Officer, Western Railway, Jaipur Division, Jaipur.

...Respondents.

Mr.S.Kumar - Counsel for applicant.

Mr.Tej Prakash Sharma - Counsel for respondents

CORAM:

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

Hon'ble Mr.Patan Prakash, Judicial Member.

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

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri K.C.Sethi has prayed that the respondents may be directed to assign seniority to the applicant on the post of Goods Guard in accordance with the policy laid down by the Railway Board as per Annx.A4 dated 21.4.89 and in accordance with Rule 311 of the Indian Railway Establishment Manual (IREM) Vol.I and all consequential benefits may be granted to him after assignment of seniority on the post of Guard.

2. The applicant's case is, that he was initially appointed on the post of Telegraph Signaller in 1965 and thereafter granted promotions from time to time. While he was working on the post of Assistant Head Signaller grade Rs.1200-2040(RP) he was declared surplus in the Telegraph Department in 1991. He had given option for absorption either on the post of Guard or on the post of Ticket Collector. However, he was absorbed on the

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post of Booking Clerk on 5.6.91. On a representation being made by him against this absorption, he was absorbed in Reservation Office as Reservation Clerk on 1.2.92 in scale Rs.1400-2300. He continued to represent for his absorption on the post of Guard and also tookup the matter through the Unions. Eventually the applicant was absorbed on the post of Goods Guard vide order dated 11.11.92 (Annx.A2) scale Rs.1200-2040. However, the applicant was not assigned any seniority after absorption in this post in accordance with the policy laid down by the Railway Board in their circular letter dated 21.4.89 (Annx.A4). Again the applicant tookup the matter with the administration and the Unions also tookup the matter on his behalf. Seniority was assigned to him vide Annx.A7 dated 10.12.93 on the post of Goods Guard. The applicant was not satisfied with this assignment of seniority and he made a representation Annx.A8 dated 28.12.93 in this regard. Thereafter, the respondents issued a communication dated Annx.A9 dated 10/11.2.94 stating that the matter regarding the seniority is being examined and therefore for the present the communication dated 10.12.93 (Annx.A7) by which seniority was assigned to him should not be acted upon. It was further stated in the said letter that after necessary enquiry the correct position would be communicated. The applicant's case is that no further communication has since been received with regard to fixation of his seniority on the post of Goods Guard. He has prayed that this may be done at the earliest in accordance with rules and instructions on the subject and necessary consequential benefits may also be granted to him.

3. The respondents in their reply have stated inter alia, that since the applicant was absorbed on the post of Guard at his own request, he was to be assigned bottom seniority. They have added that after receipt of representation regarding the matter

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of seniority as fixed vide Annx.A7, the matter regarding assignment of seniority is under consideration of the office of the General Manager, respondent No.1. They have stated that therefore this application should be treated as premature.

4. During the arguments the learned counsel for the applicant drew our attention to paragraphs (iii) and (iv) at page 16 of Annx.A4 being the instructions issued by the Railway Board on the subject. The entire instructions on the subject are at pages 14-17, PBE No.106/89 dated 21.4.89. According to him, as per these instructions and the provisions of the IFEM, the applicant is entitled to seniority on the post of Goods Guard in accordance with his total length of service and initially at the Divisional level a decision to assign seniority to the applicant in accordance with this provision was also taken vide Annx.A5. He has further stated that a period of more than 3½ years has passed since the communication Annx.A7 was issued by the respondents but still the final position regarding his seniority remains undecided.


5. The learned counsel for the respondents stated that the applicant was correctly assigned seniority on the post of Goods Guard in view of the fact that he has been absorbed on the said post at his own request. It is however not known whether the position of his seniority has since been finally settled by the office of the General Manager.

6. We have heard the learned counsel for the parties and have perused the material on record including the rejoinder filed by the applicant.

7. In their reply the respondents have themselves accepted that after the seniority position of the applicant and two others was determined as per Annx.A7 dated 10.12.93 with which the applicant is aggrieved, the matter regarding reassignment of seniority has been pending with the office of respondent No.1.

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According to the learned counsel for the applicant no communication has so far been received by the applicant regarding reassignment of seniority to him. In the circumstances, we direct respondent No.1 to take a decision about the seniority position of the applicant on the post of Goods Guard having regard to the facts of the case and the rules and instructions on the subject including Annx.A4 dated 21.4.89 as may be applicable to the case of the applicant. Since a period of more than 3½ years has passed without there being a final decision regarding the seniority position of the applicant, we direct that respondent No.1 shall take a decision in this regard within a period of three months from the date of the receipt of a copy of this order. The O.A stands disposed of. No order as to costs. If the applicant is aggrieved by any decision taken by the respondents he shall be free to file a fresh O.A before the Tribunal.



(Ratan Prakash)

Judicial Member.



(O.P.Sharma)

Administrative Member.