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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 31.01.2000

OA No.535/95

Gauri Shanker S/o Shri Yad Ram, aged around 56 years, presently posted as Chief Ticket Inspector Incharge, Western Railway, Kota Division, Kota.

.. Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota.
3. Shri R.K.Gunawat, CTI, Western Railway, Kota Division, Kota.

Mr. P.P.Mathur, Proxy to Mr. R.N.Mathur, counsel for the applicant

Mr. Manish Bhandari, counsel for the respondents.

CORAM:

Hon'ble S.K.Agarwal, Judicial Member

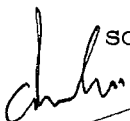
Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member

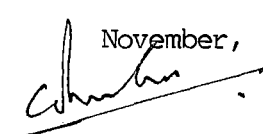
The applicant seeks quashing of the order dated 14.8.1995 (Ann.A1) and declaration of respondent No.3 as junior to the applicant in this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

2. Facts of the case, as stated by the applicant, are that he was initially appointed as Ticket Collector in Kota Division on 19.5.1960. He was further promoted as Head T.C. in the scale of Rs. 425-600 vide order dated 20.1.1977. The post of TNCR, TTI and CTI are also in the pay scale of Rs. 425-640. The applicant was posted on the post of TNCR in the same pay scale of Rs. 425-640. The said order was challenged by the applicant in a



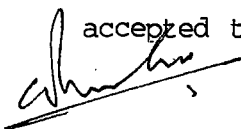
Civil Suit but it was subsequently dismissed for non-prosecution. The applicant was further promoted on 1.1.1984 on the post of TTI scale Rs. 1600-2660 corresponding to the pay scale of Rs. 550-750 and was thereafter given promotion on the post of CTI in the pay scale of Rs. 2000-3200 vide order dated 6.1.1987. He was called to appear in the selection test vide order dated 19.9.88 but the result was not declared because the applicant had in the meantime submitted an OA before this Tribunal seeking direction that he may be promoted on the post of CTI w.e.f. the date vacancies were available. The aforesaid OA was not pressed as subsequently he was given promotion on regular basis. The selection test was conducted in the year 1992 in which respondent No.3 Shri R.K.Gunawat was not called for the reason that the quota for the candidates belonging to ST was in excess.

Shri Gunawat was initially appointed in Baroda Division and subsequently transferred to Kota Division on request but bottom seniority was not assigned to him. Now in order to favour Shri Gunawat, respondent No.2 in the pretext of incorrect determination of vacancies earlier has placed him above the applicant in the seniority list of CTI. It has also been stated that one Shri Jagannath was initially appointed on 10.2.1961 as Goods Clerk and posted as TTE vide order dated 29.7.1994 even though the two cadres are different, his cadre was changed incorrectly on medical grounds. The official respondents have issued an order on 29.9.1995 (Ann.A2) in which it has been mentioned that the promotion order issued on 19.4.95 (Ann.A3) is provisional and subject to outcome of OA No.89/95. The applicant has challenged the correctness, legality and validity of change of seniority in the cadre of CTI on the ground that the change has been made without assigning him a show-cause notice; that the respondents have not correctly determined the vacancies available for ST and it was wrong for them to say that Shri Gunawat was given promotion on the basis of general seniority and that Shri Gunawat was transferred from Baroda Division to Kota Division in November, 1975 and, therefore, his seniority should have been reckoned from November, 1975. It has also been mentioned by the applicant that one Shri



MP Singh was given promotion against sports quota in the absence of any such rules and the category of Jagannath Verma was changed from the post of Goods Clerk to Head Ticket Collector which was also against the rules. Finally, it has been contended the basis of interim order dated 14.8.95 (Ann.A1) is wrong; a petition against the aforesaid order has been admitted by the Hon'ble Tribunal and registered as OA No.89/95 and the same is pending.

3. Reply has been filed by the official respondents opposing this application. It has been mentioned that the applicant was appointed as Ticket Collector on 19.5.1960 and promoted to the post of TNCR vide order dated 20.4.1978 purely on ad hoc basis (Ann.R1). It has been stated that the applicant has made certain averments in para 4.2 but no documents in support thereof has been submitted by him to substantiate the same. The applicant was promoted as TTI on 1.1.1984 and thereafter as CTI vide order dated 6.1.1988 (Ann.R2) purely on ad hoc basis. As regards the applicant having filed OA against the order dated 6.1.1988 promoting him to the post of CTI, the averment made by the applicant that it was not pressed for reasons that he was subsequently given regular promotion is not correct and, in fact, the OA had not found favour with the Hon'ble Tribunal and hence the applicant had withdrawn the same by not pressing it. It has also been stated that the averment made by the applicant in para No.3 are not relevant as the respondent No.3 had been given promotion in pursuance of an earlier selection. The applicant has made certain averments in para 4.4 but the same has not been substantiated by him. In fact, he has failed to substantiate as to how respondent No.3, on his transfer from Baroda Division to Kota Division was not given due seniority in accordance with the rules and even if in that case how the applicant was challenging the same after a long gap of 20 years and that too without placing on record any document which he wants to challenge. The official respondents have accepted that respondent No.3 was promoted in the pay scale of Rs. 425-640

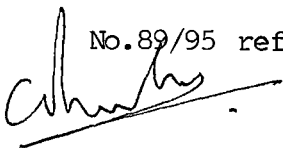


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w.e.f. 28.1.1977 and, therefore, he has rightly been assigned the seniority as reflected in the impugned order dated 14.8.1985 (Ann.A1). It has also been stated by the respondents that the applicant's allegations that one Shri MP Singh was given promotion as Head TC against sports quota and category of Shri Jagannath was changed from the post of Goods Clerk to Head TC deserve to be rejected outright because these persons have not been impleaded and without submitting any documents on the basis of which such allegations have been made. It has also been contended on behalf of the official respondents that a bare perusal of orders at Ann.A2 and A3 would clearly show that respondent No.3 has been promoted on the post of CTI on regular basis and in furtherance to that, order at Ann.A1 was passed by which respondent No.3 has been given certain benefits of the said post from a prior date of his passing the selection after competing with the general caste candidates and, therefore, there exists no illegality in the impugned order and there are no grounds to quash the same.

4. We have heard the learned counsel for the parties and have carefully examined the records.


5. In view of the fact that S/Shri Jagannath and MP Singh have not been impleaded as necessary parties in this OA and simply based on the averments made by the applicant without producing any documents to substantiate such averments, we are not going to examine that aspect of controversy in this case. As far as the contention of the applicant that respondent No.3 Shri Gunawat was promoted as a reserved candidate without there having been ST vacancy available, the position has been clarified by the respondents and they have stated that Shri Gunawat was promoted after his selection alongwith general candidates and not against a vacancy reserved for ST candidates. The said promotion of Shri Gunawat was on regular basis. It appears that Shri Gunawat is not a respondent in OA No.89/95 referred to by the applicant in his averments and the applicant



has not been able to establish as to how the disposal of the said OA will have any linkage with his claim for promotion vis-a-vis Shri Gunawat. On the other hand, it is observed from office orders dated 20.4.1978 (Ann.R1) and 6.1.1988 (Ann.R2) that the applicant was promoted against the post of TNCR and CTI respectively on ad hoc basis only. We have observed from the impugned order dated 14.8.1995 (Ann.A1) assigning them seniority, that the respondents have categorically mentioned that Shri Gunawat and Shri Meena have passed the selection by general standards. It is, therefore, quite clear that the contention of the applicant that respondent No.3 had been selected against the reserved vacancy of ST even when the ST quota was in excess, is not established and on the other hand, it is evident that respondent No.3 had obtained the promotion on his own merit against an unreserved vacancy competing with the general candidates.

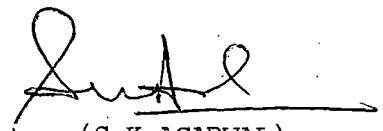
6. We are, therefore, of the opinion that the applicant has not been able to substantiate his case and there is no reason for us to interfere with the impugned order dated 14.8.95 (Ann.A1).

7. In view of above, the Original Application does not succeed and is accordingly dismissed with no order as to costs.



(N.P.NAWANI)

Adm. Member



(S.K.AGARWAL)

Judl.Member