

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 17.7.96.

OA 228/96

Champa Lal Meena

... Applicant

Versus

Union of India and others

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

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

For the Applicant

... Mr. P.V. Calla

For Respondents No.1 to 4

... Mr. M.Rafiq

For Respondent No.5

... Mr. Dharmendra Agarwal

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Champa Lal Meena, has filed this application u/s 19 of the Administrative Tribunals Act, 1985, challenging his depression in seniority in the post of Goods Guard scale Rs.1200-2040 (FF) vis-a-vis respondent No.5 and his reversion from the post of Passenger Guard to that of Senior Goods Guard.

2. The relevant facts of the case, as stated by the applicant, are that the applicant while working as Guard Grade-C, in the scale Rs.530-530, which was revised to Rs.1200-2040 (FF), a seniority list was issued on 18.6.86 and in the said seniority list his name figured at Sl.No.206 and against his name in Column-5 the date of his appointment has been shown as 5.10.78, whereas the name of respondent No.5, Shri Manmohan Singh, has been shown at Sl.No.227 and the date of his appointment has been shown as 25.2.79, vide Ann.A-3. Vide Ann.A-4, a seniority list of Goods Guard scale Rs.1200-2040 (FF) was issued on 1.6.90, wherein the applicant's name was shown at Sl.No.133 and that of respondent No.5 was shown at Sl.No.137 (C). The contention of the applicant is that the seniority of the applicant qua respondent No.5 had attained finality. Another contention of the applicant is that the seniority list, which was prepared pursuant to the decision of the Tribunal in OAs mentioned in para-6 of this application, was modified vide memo dated 24/30.3.93, in which the name of the applicant was shown at Sl.No.114 and that of respondent No.5 was shown at Sl.No.120, vide Ann.A-5. On the basis of that seniority list the applicant and the other seniormost Goods Guard were granted the pay scale of Rs.1350-2200. A seniority list dated 28.7.94 was circulated, in which the names of the applicant and respondent No.5 were shown at Sl.Nos.55 and 60 respectively, vide Ann.A-6. It is urged that at no point of time respondent No.5 had challenged the matter of seniority qua the applicant but by Ann.A-2, dated 14/15.3.96,

respondent No.5 has been assigned higher seniority than the applicant. It is, therefore, contended that changing the seniority position of respondent No.5 and placing him above the applicant amounts to violating the provisions contained in para-303 of the Indian Railway Establishment Manual. Ann.A-2, by which higher seniority was assigned to respondent No.5, has also been challenged as being violative of the principles of natural justice. The applicant has also challenged the action of the official respondents in directing the applicant to work as Senior Goods Guard from the post of Passenger Guard, which amounts to his reversion.

3. We have heard the learned counsel for the parties and have carefully perused the records..

4. The learned counsel for the applicant states that no statutory remedy for making an appeal against depression in seniority is provided and, therefore, the present application is not premature. However, the fact remains that the applicant has been reverted from the post of Passenger Guard to that of Senior Goods Guard. His reversion may be due to his depression in seniority or due to any other reason but so far as reversion is concerned, a statutory remedy of appeal is provided in Rule 18 (v)(b) of the Railway Servants (Discipline and Appeal) Rules, 1968 and, therefore, regardless of the reason for which the applicant has been reverted to a lower post, the applicant should have preferred an appeal as envisaged by the aforesaid rule before agitating his grievance in this Tribunal.

5. In the circumstances, we find this application to be premature. However, if the applicant makes an appeal to the General Manager, Western Railway, within a period of one month from the date of this order, the same shall be decided on merits through a detailed order meeting all the points raised therein within a period of three months from the date of the receipt thereof. The operation of the orders dated 21.3.96 and 14/15.3.96, at Anns.A-1 and A-2 respectively, would remain stayed till the disposal of the appeal, as aforesaid, if they have not been implemented and the applicant has not been relieved from the post of Passenger Guard. If the applicant is still aggrieved by any decision taken on his appeal, he shall be at liberty to file a fresh OA. OA stands disposed of accordingly with no order as to costs.

(O.P. SHARMA)

ADMINISTRATIVE MEMBER

G.K. NISHA
(GOPAL PISHIA)
VICE CHAIRMAN

VK