

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 2-7-2021

O.A. No. 233/1996.

Ravi Shanker son of Late Shri Soney Lal, aged about 33 years, Head Draftsman, scale Rs. 1600-2660 under C.P.M. (R.E.), Kota, Western Railway, Kota.

... APPLICANT.

v e r s u s

1. The Union of India through General Manager (E), Western Railway, Church Gate, Bombay.
2. The Divisional Railway Manager (Estt.) Western Railway, Kota.
3. The Divisional Railway Manager (Estt.) Western Railway, Ajmer.
4. The Chief Project Manager, Railway Electrification, Western Railway, Kota.

... RESPONDENTS.

Shri P. V. Calla, counsel for the applicant.
Shri U. D. Sharma counsel for respondent No. 3.
None is present for the other respondents.

CORAM

Hon'ble Mr. H. O. Gupta, Administrative Member.
Hon'ble Mr. J. K. Kaushik, Judicial Member.

: O R D E R :
(per Hon'ble Mr. J. K. Kaushik)

Ravi Shanker has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, praying therein for the following reliefs -

" In the facts and circumstances of this

case, it is, therefore, prayed that the Hon'ble Tribunal may kindly call for and examine the entire record relating to this case and by an appropriate order or direction direct the respondents who issued a seniority list wherein the name of the applicant is shown at appropriate place and thereafter proceeded further in the matter of selection to the post of Chief Draftsman scale Rs. 2000-3200. If during the pendency of this O.A. any adverse order is passed the same may also be declared illegal. The official respondents may further be directed to relieve the applicant from Kota as already directed vide letter dt. 26.12.1994 Annexure A/14, further the D.R.M. (E), Western Railway, Ajmer Division may be directed to allow the applicant to work at Ajmer as his lien has already been transferred from Kota to Ajmer Division.

Any other relief to which the applicant is found entitled, in the facts and circumstances of the case, may also be granted.

The O.A. may kindly allowed with costs."

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2. The brief facts of the case as narrated in the OA are that the applicant possessed the qualification of diploma in mechanical and got an opportunity to apply for recruitment to the post of Senior Draftsman in the pay scale of Rs. 1400-2300, in pursuance to an advertisement No. 1/85, which was issued from the Railway Recruitment Board, Ajmer. He was subjected to a selection, in which he was selected and thereby vide communication dated 17.06.1986 (Annexure A-4), he was appointed to the said post. He was posted in the office of CPM (RE) Kota, where he joined on 30.06.1986. Thereafter he was sent for training and on completion of the training he was appointed as Senior Draftsman (as SNT) in the pay scale of Rs. 1400-2300.

3. It is the further case of the applicant that he was appointed for a project through RRB as direct recruit. His lien was required to be maintained in a particular division and the matter regarding fixing of his lien was taken with the General Manager (E). The lien of the applicant was fixed in Kota Division vide letter dated 04.02.1988 (Annexure A-6). Further the applicant received a letter dated 18.08.1989 and he was asked to submitt a fresh willingness for fixing of his lien in other division. This was done in view of the position that the authorities at Kota Division had expressed

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their inability to continue his lien with them. The applicant submitted his willingness with a categorical mention that date of his joining should not be disturbed and his lien may be fixed in Ajmer Division or in the alternative in Jaipur Division.

4. His case for fixing up the lien was kept pending and his name was not at all included in the seniority maintained in Kota Division. In this way, the Rankers who were less qualified and appointed/promoted later to that of applicant to the post of Senior Draftman, were further promoted to the next higher grade. He represented in the matter but of no avail. OA No. 205/91 was filed before this Tribunal. This Tribunal was pleased to direct the respondents to prepare and publish a seniority list in Kota Division indicating the position of the applicant. He had to file a CP and finally seniority list was published on 13.12.1995 (Annexure A-12), where the name of the applicant finds place on Sr. No. 21.

5. On the other hand, the lien of the applicant was reallocated to Ajmer Division by the decision of the Competent Authority dated 06.10.1994 (Annexure A-13). The matter was finalised by letter dated 26.12.1994 (Annexure A-13) and the lien of the applicant was changed from Kota Division to Ajmer

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Division. Despite change of the lien of the applicant from Kota Division to Ajmer Division, the applicant was continued in Kota Division and his name was not included in the seniority list of Senior Draftman / Head Draftsman in Ajmer Division. He was given the regular ~~promotion~~ to the post of Head Draftsman after due process vide order dated 3/14-12-1993.

6. Thereafter there was a selection to the post of Chief Draftsman in the pay scale of Rs. 2000-3200. He came to learn that his number of juniors promoted were appointed as Senior Draftsman/Head Draftsman subsequent to the date of the applicant had already been promoted to the post of Chief Draftsman. A notification dated 14.03.1996 was issued for filling up 75% posts of Chief Draftsman. The applicant submitted a representation for inclusion of his name in the seniority list of Head Draftsman but no response was the result. A selection was notified without showing his seniority position in his Division. This OA has been filed on number of grounds mentioned therein with the prayer as extracted above in Para 1 of this order.

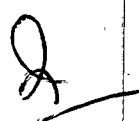
7. Respondents have filed a counter reply to the OA and have contraverted the facts and grounds raised in the OA. It has been submitted that the

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seniority list of the Ajmer Division has been amended and the name of the applicant and two other persons have been placed above Shri Vijay Kumar Purohit. The selection for the post of Chief Draftman has been finalised and the name of the applicant was included in the said panel in Sr. No. 68. Thus, no cause of action survives to the applicant and the OA deserves to be dismissed. A separate reply has been filed on behalf of the respondent No. 3.

8. We have heard the learned counsel for the parties and perused the record of the case carefully.

9. Learned counsel for the applicant has mainly argued and stressed on two basic issues namely, the applicant was not granted his due promotion, benefit of next below rule at par on the post of Head Draftman in the pay scale of Rs. 160-2660 with his next junior in Ajmer Division, despite fixing of his lien in the said Division ever since his appointment. The second issue is that the non assignment of his correct seniority and non grant of his due promotion in Ajmer Division have resulted in bringing his position down in the seniority list which was prepared for selection to the post of Chief Draftsman and whether he is entitled for



posting in Ajmer Division on the post of Chief Draftman.

10. Now taking the first issue, Learned counsel for the respondents had made a statement at Bar after consulting his officer incharge of the present case that junior to the applicant were promoted to the grade of Rs. 1600-2660, earlier to the promotion of the applicant to the said post in Ajmer Division. This has been recorded in the order sheet dated 05.06.2002 on which the case was heard and the order was reserved. In this view of the matter, the applicant has a reasonable claim and he is entitled to get the benefit of next below rule on the post of Head Draftsman in the pay scale of Rs. 1600-2660 from the date his next junior was granted the promotion to the same. Thus no further discussion on this issue is required and the issue is decided in favour of the applicant on the basis of the statement made by the Learned counsel for the respondents at Bar.

11. As regards the next point i.e. the promotion to the post of Chief Draftsman as well as the posting of the applicant in Ajmer Division, Learned counsel for the respondents has submitted that the post of Chief Draftsman in the pay scale of Rs. 2000-3200 is a Headquarter controlled post. The



selection is held by the Headquarter as per the base grade seniority in the cadre. Due to any wrong fixation of the seniority or delay in the promotion to intermediate grades in the channel of promotion, there would be no adverse affect on the postion of the applicant in the eligibility list prepared for selection to the post of Chief Draftsman. Not only this, even the posting on the post of Chief Draftsman are done by the Headquarter and one could be posted in any division of the Western Railway Zone, since all the divisions in the Western Railway are under the control of said zone. The applicant has already been granted his due promotion to the post of Chief Draftsman. In this view of the matter, the applicant can have no grievance regarding his position on the panel of Chief Draftsman and also regarding his posting in Kota Division, by the Headquarter. Learned counsel for the applicant submitted that applicant's seniority is taken from the feeder post and not from the initial grade for promotion to the post of Chief Draftsman and non assignment of his seniority in Ajmer Division would have adversely affect his position in the eligibility list. However, no further details could be submitted or highlighted in this matter. As per the rules in force, in case of selection at Zonal level the base grade seniority is the basis for preparing the eligibility list and the

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consequential panel for the post which is controlled by the Headquarter as in this case i.e. post of Chief Draftsman and any transfer between the divisions would not make any difference. Similarly is the position of the date of promotion to the intermediate grades. We are in agreement with this view and are supported by verdict of this very Bench in V. K. Saxena vs. U.O.I. (1990) 13 ATC 798, wherein a similar controversy was involved, in which it has been held that at Zonal level the seniority will be based on the initial date of appointment in the grade and own request transfers amongst different divisions etc. would not make any difference in the consideration or on promotion to the post which is controlled by the Headquarter at Zonal level. Nextly as regards the posting of the applicant in Kota Division is concerned, once the post of Chief Draftsman is controlled by the Headquarters, the Headquarter could post a person anywhere under his control i.e. in any division and thus the posting of the applicant on the post of Chief Draftsman in Kota Division is perfectly valid and calls for no interference. In this way, the second issue goes against the applicant and is decided in favour of the respondents.

12. In view of the aforesaid discussion, we are of the considered opinion that the applicant would

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only be entitled for the benefits of next below rule in Ajmer Division on the post of Head Draftsman in the pay scale of Rs. 1600-2660 and consequential pay thereof and other reliefs are not sustainable. Thus we pass the order as under :-

" The Original Application is partly allowed. The applicant shall be entitled to the benefits of next below rule on the post of Head Draftsman in the pay scale of Rs. 1600-2660, at par his juniors in Ajmer Division by treating him as promoted from the date his next junior was promoted to the same post. He shall also be entitled for all consequential benefits but with a restriction on amount of arrears thereof which would be admissible only up to a period of one year prior to filing of this OA.

Other reliefs are declined. This order shall be implemented with a period of three months from the date of receipt of the same. No costs.

J. K. KAUSHIK
(J. K. KAUSHIK)

MEMBER (J)

H. O. GUPTA
(H. O. GUPTA)

MEMBER (A)