

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 67/97.
~~P.A. No.~~

199

DATE OF DECISION 30.7.02

MANOJ MISHRA & ANR. Petitioner

MR.C.B.SHARMA Advocate for the Petitioner (s)

Versus

UNION OF INDIA & ORS. Respondent

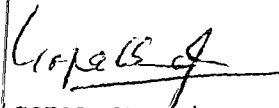
MR.U.D.SHARMA Advocate for the Respondent (s)


CORAM :

The Hon'ble Mr. JUSTICE G.L. GUPTA, VICE CHAIRMAN

The Hon'ble Mr. GOPAL SINGH, ADM.MEMBER

1. ✓ Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(GOPAL SINGH)
MEMBER (A)


(G.L.GUPTA)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 30.10.02

OA 67/97

1. Manoj Mishra, Station Superintendent (P), W/Rly, Ajmer.
2. Kirti Bhargava, Station superintendent, Marwar JN, Distt. Pali, W/Rly.

... Applicants

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Divisional Rly Manager, W/Rly, Ajmer Division, Ajmer.
3. Shri Mukesh Gaur, Asstt. Trains Controller, W/Rly, Ajmer.

... Respondents

CORAM:

HON'BLE MR. JUSTICE G.L. GUPTA, VICE CHAIRMAN

HON'BLE MR. GOPAL SINGH, ADM. MEMBER

For the Applicants

... Mr. C.B. Sharma

For the Respondents

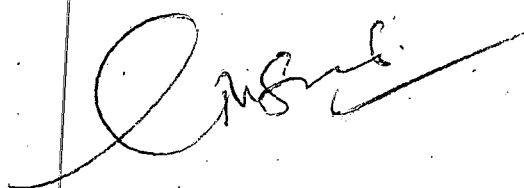
... Mr. U.D. Sharma

ORDER

PER MR. JUSTICE G.L. GUPTA

The two applicants, named above, applied for selection to the post of Traffic Apprentice in the pay scale of Rs.455-700 in the year 1986. They were selected. They passed the requisite training and were allotted Ajmer Division vide letter dated 9.1.89 (Ann.A/2). After completion of the training, both of them were absorbed on the post of Assistant Station Master (in the OA it is stated that they had been absorbed on the post of Station Master) on 13.8.89. The applicants got promotion and at the time of filing of this OA, they were working as Station Superintendent in the pay scale of Rs.2375-3500.

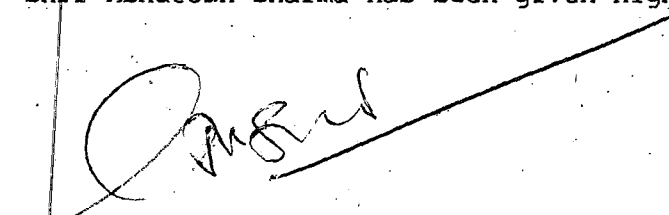
2. The case for the applicants is that they were granted the scale of Rs.1600-2660 from the date of their appointment in view of various judgements of the Tribunal and they were granted further scale of Rs.2000-3200 w.e.f. 1.3.93 under restructuring scheme and thereafter they got promotion to the post of Station Superintendent in the pay scale of Rs.2375-3500 vide order dated 26.7.95. It is stated that the Railway Board had issued a circular dated 15.5.87 regarding recruitment



of Traffic/Commercial Apprentices and on the basis of the said circular applicants' pay was fixed. It is further the case for the applicants that respondent No.3, Shri Mukesh Gaur, is junior to them as he was in the next batch. It is averred that pursuant to the decision of Hon'ble the Supreme Court in the case of Union of India & Ors. v. M.Bhaskar & Ors., 1996 (2) SLJ 25, the respondents have now reverted the applicants from the post of Station Superintendent scale of Rs.2000-3200 to the post of Assistant Station Master scale Rs.1400-2300, to which they were never appointed. According to the applicants, the order of reversion is bad because no opportunity of hearing was given to them before issuing the said order. It is prayed that the impugned order dated 28.1.97 (Ann.A/1), passed by respondent No.2, so far as it relates to the reversion of the applicants from the post of Station Superintendent to the post of Assistant Station Master, be declared illegal and discriminatory and be quashed with all consequential benefits including the assignment of correct seniority to them.

3. In the counter, the respondents' plead that on reducing the pay scale the applicants could prefer appeal under the Railway Servants (Discipline & Appeal) Rules, 1968. It is further stated that the applicants had been recruited as Traffic Apprentice in the year 1986 and had been posted as Assistant Station Masters in the pay scale of Rs.1400-2300 and not as Station Masters. It is pointed out that the Railway Board in its circular dated 15.5.87 directed that the future recruitment of Apprentices would be made in the grade of Rs.550-750 (1600-2660) and the Apprentices already undergoing training would be absorbed in the scale of Rs.455-700 (1400-2300) or Rs.400-750 (Rs.1400-2600), as the case may be, and as the applicants had been recruited in the pay scale of Rs.1400-2300, they have been rightly reverted to that scale. It is pointed out in the reply that the promotions to the various higher scales were given to the applicants on provisional basis subject to the decision of Hon'ble the Supreme Court and now when the Hon'ble Supreme Court has decided the matter, the applicants have been reverted.

4. In the rejoinder, the applicants have relied on the document (Ann.A/5) dated 2.12.96, in which they had been shown as Station Masters and not as Assistant Station Masters. They have also stated that one Shri Ashutosh Sharma has been given higher pay scale and thus they have

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been discriminated.

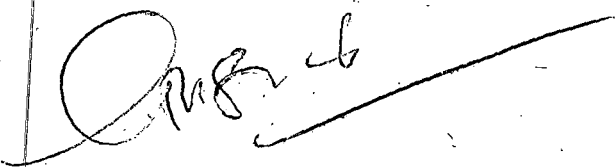
5. In the reply to the rejoinder the respondents have reiterated the facts stated in the counter.

6. We have heard the learned counsel for the parties and perused the documents on record.

7. The appointment order of the applicants, pursuant to completion of the training, was issued on 30.8.89 (Ann.A/3). In that order it is clearly stated that the applicants had been appointed as Assistant Station Masters in the pay scale of Rs.1400-2300. The applicants never challenged that order. At this stage they cannot be permitted to plead that they had been appointed as Station Masters and not as Assistant Station Masters.

8. The applicants have tried to take help of the letter (Ann.A/5) dated 2.12.96, in which it was stated that the applicants had been absorbed in the category of Station Masters in the pay scale of Rs.1400-2300. It is evident that in this letter it was incorrectly stated that the applicants had been absorbed in the category of Station Masters. The appointment order (Ann.A/3) says in clear terms that the applicants had been appointed as Assistant Station Masters. Therefore, there could not be any occasion of absorbing them in the category of Station Masters. It is also significant to point out that the pay scale given in the letter (Ann.A/5) is also Rs.1400-2300, which was the pay scale of Assistant Stations Masters. That being so, the applicants' contention that they had been initially appointed or absorbed as Station Masters cannot be accepted.

9. It is undisputed fact that the applicants had been granted higher pay scale of Rs.1600-2660 pursuant to the decisions of the Tribunal in some cases, in which it was held that all the Apprentices were entitled to the higher pay scale of Rs.1600-2660 with reference to the Board's circular dated 15.5.87. The Board's circular dated 15.5.87 came to be interpreted by their Lordships of Hon'ble the Supreme Court when the decisions rendered by various Tribunals were challenged before the Supreme Court. It has been held in the aforesaid case that only Traffic/Commercial Apprentices were eligible for the scale of Rs.1600



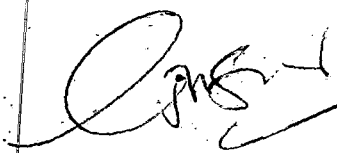
2660 and that the cut of date fixed in the circular dated 15.5.87 was not arbitrary. It has been further held that by this circular that new pay scale had been granted to the persons appointed after the issuance of the circular. It is not disputed that the applicants were appointed prior to the Board's circular dated 15.5.87. In view of the order dated 6.5.96, passed by Hon'ble the Supreme Court, the respondents have now passed the impugned order (Ann.A/1) dated 28.1.97, reverting the applicants to the pay scale of Rs.1400-2300.

10. When the impugned order has been issued pursuant to the decision of Hon'ble Supreme Court, it cannot be successfully pleaded by the applicants that a show-cause notice was required to be issued before issuing the said order.

11. In this connection, it is also significant to point out that the pay scales on restructuring and promotions i.e. Rs.2000-3200 and Rs.2375-3500 were given to the applicants on provisional basis, which fact is not disputed by the applicants. In the promotion order it was clearly stated that grant of higher pay scale was on provisional basis and that would be subject to the decision of Hon'ble the Supreme Court. The order dated 30.9.93 (Ann.R/1) and the order dated 24.2.97 (Ann.R/2) speak in clear terms that grant of the scales was on provisional basis and it would be subject to the decision of Hon'ble the Supreme Court. Since the applicants had already been informed by the orders of grant of pay scales that the grant was on provisional basis, they cannot be heard to say that no order of reversion could be passed without giving them an opportunity of hearing.

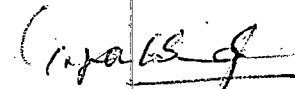
12. A question of discrimination has been raised in the rejoinder. However, the document Ann.R/8 dated 16.5.97, filed alongwith reply to the rejoinder, indicates that in the internal correspondence it was opined that Shri Ashutosh Sharma was not entitled to get benefit of the seniority in the pay scale of Rs.455-700. Therefore, the case of discrimination does not subsist.

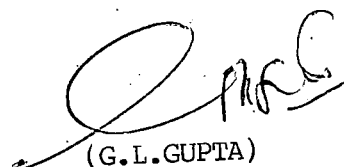
13. The learned counsel for the respondents contended that the seniority of the applicants should be directed to be maintained. The seniority of the applicants obviously shall now be in the pay scale of Rs.1400-2300. This Tribunal cannot direct the respondents to keep th



seniority of the applicants intact in the higher pay scale. In any case, if the applicants are aggrieved of the placement of their position in the seniority list of the relevant grade, they are at liberty to challenge the order by filing a fresh OA.

14. Consequently, with the observations made above, this OA is dismissed. No order as to costs.


(GOPAL SINGH)
MEMBER (A)


(G.L. GUPTA)
VICE CHAIRMAN