

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order : 1. 01.2002.

O.A.No. 80/97

Mangilal S/o Shri Bhagwana Ram, aged 40 years, at present working as Assistant Luggage Clerk, under Station Manager, Western Railway, Jaipur, Jaipur Division, R/o Khatipura Road, C/o Jain Medical Store, Kumawat Colony, Jaipur.

.....Applicant.

VERSUS

1. The Union of India, through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Divisional Rail Manager (E), Western Railway, Jaipur.
3. Divisional Safety Officer (E), Western Railway, Jaipur.

.....Respondents.

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CORAM :

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. A.P.Nagrath, Administrative Member

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Mr. P.V. Calla, Counsel for the applicant.

Mr. Manish Bhandari, Counsel for the respondents.

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PER HON'BLE MR.A.P.NAGRATH :

By filing this O.A., the applicant seeks a direction to the respondents to send him for training for the post of Assistant Luggage Clerk (for short 'ALC'), on which he claims to have been working since October 1993. His further prayer is that respondents be directed to consider him as having been regularly appointed as ALC with effect from 5.1.1993 and to provide him seniority above Shri Ram Lal, with all consequential benefits.

2. The facts of the case as per the applicant are that while working



in the scale of Rs. 800-1150 he appeared in a written test for promotion to a Group 'C' category against 40% quota to which Group 'D' employees are entitled. He qualified in the written test and a final panel was declared vide office order dated 5.1.1993 in which applicant's name did not appear. By a subsequent order dated 9.9.1993, his name along with another candidates was included in the said panel and he was placed at sl.No. 11-A in order of seniority below Shri Narendra Singh and above Shri Ram Lal Birdha. It has been stated that when he was under sick list in December 1993 one batch of the successful candidates was sent for training. The employees selected for this post are required to first complete the training before they are put on the working post. He being under the sick list, could not proceed for this training. He joined back on duty on 4.1.1994 after being declared medically fit. Since then, he has not been sent for any other training course and has also not been given any posting in Group 'C' despite having been duly selected. According to the applicant, he was entitled to be posted on the post of Ticket Collector and his case was also taken up by the Western Railway Employees Union. He has not been considered for posting as a Ticket Collector and now, by order dated 19.2.1996, Annex.A/1, he has been informed that he cannot be considered for promotion or for sending in a training as the Headquarters Office has not approved extending the currency of the panel. Being aggrieved with this decision, the applicant has filed this O.A. claiming the relief as stated supra. The applicant has also been claiming that he has been working as ALC since 1993 but he has not been paid for the said post.

3. The respondents have stated in their reply that the applicant was asked to go for training vide orders dated 10.12.1993 and 29.12.1993 as the training was to commence from 30.12.1993 and was to continue till 21.3.1994. He was also relieved for the training but instead, he



reported sick without informing the concerned authorities. The respondents have also stated that the applicant had been separately pursuing his case for being posted as Ticket Collector and he did not appear inclined to attend in the training which was necessary for his regular appointment on promotion on the said post. He is stated to have continued to work under the Chief Parcel Supervisor but, no formal order posting him as ALC has ever been issued. According to the respondents, the applicant has continued to remain in Group 'D'.

4. We have heard the learned counsel for either side. Nothing has been brought on record or produced before us to show that the applicant was ever posted in Group 'C' post consequent to his being placed on the panel of Commercial Clerks. A letter dated 3.7.2001 has been shown to us by the learned counsel for the respondents by which the Station Manager has informed the Senior Divisional Personnel Officer, Jaipur, that applicant's services were being used in the parcel office and he is not inclined to work as Bariwalas even though, he was posted on that post on 11.6.2000. It is further mentioned that from 2.1.2001, the applicant had started working on the post of Bariwala. In terms of the order dated 27.4.2001, he had been transferred as Pointsman to Isarda Station. He was spared on 28.4.2001 but has been absenting since then without any information. The emphasis of the learned counsel for the applicant was that after the applicant reported back from sick list on duty in January 1994, he should have again been sent for training in a subsequent batch and given posting as ALC. His plea was that even now the respondents may be directed to send the applicant for training and post him as ALC. The learned counsel for the respondents on the other hand reiterated the stand of the respondents that the occasion to send the applicant for training will not arise now as the currency of the panel has since expired and the competent authority has not approved extending the



currency of the panel.

5. We have considered the facts and the rival contentions carefully. It is apparent that the applicant himself has shown less than adequate interest in being posted as ALC. It appears that he continued to pursue with the authorities for his posting as Ticket Collector but the fact remains that when he was sent for training in 1993, he was under sick list with the Railway Doctor. It is also a fact that after he reported back on duty in January 1994, no action has been taken by the respondents to book him for another training course. We also find that the submissions made by the respondents are not very clear, as they have stated that the applicant was never posted in Group 'C' but, we find from the letter dated 29.6.1996, Annex.A/3, that the applicant has been shown as Bariwala in the scale of Rs. 950-1500 under Station Manager, Hirnod, and the said order also says that he is being posted as Bariwala in the scale of Rs. 950-1500 at Jaipur. As per our understanding, the scale of Rs. 950-1500 is not a Group 'D' scale but a Group 'C' scale. The respondents have left this issue to remain under confusion in their reply. However, we do not take any view on this issue as the controversy before us is whether the applicant can be sent for training for the post of ALC. The respondents have indicated inability to send him for training vide their letter dated 19.2.1996 on the ground that currency of the panel has expired. We do not find this argument acceptable as the panel has already been operated by the department. The applicant is at Sl.No. 11-A and it is not the case of the respondents that his juniors have not been promoted already. Since the juniors have been promoted the relevance of the currency of the panel becomes redundant. It is also a fact that respondents did not take any action after January 1994 to send the applicant for training again. The mere fact that the applicant was pursuing his case for being posted as Ticket Collector, did not preclude



the respondents in acting correctly as required under the rules. It is only just and proper that the applicant is now sent for necessary training and on successful completion, he should be posted as ALC. In view of the facts and circumstances of this case, we consider it appropriate that in case the applicant is successful in his training, he shall be assigned bottom seniority in the panel but he shall be placed above all those who were promoted subsequent to exhausting this panel. The applicant cannot now claim to be placed above Shri Ram Lal, as he missed the opportunity of qualifying in the training at the appropriate time.

6. The O.A. is, partly allowed. We direct the respondents to send the applicant for the necessary training for the post of ALC at the earliest and on successful completion of the training, he shall be posted as ALC in the scale Rs. 975-1540 (since revised after the V Central Pay Commission), and he shall be assigned seniority at the bottom of the panel declared in January 1993 and he shall be placed below the last person posted as ALC from that panel. The applicant shall be entitled only to his notional pay fixation which becomes due to him on his promotion as ALC. No order as to costs.

anp
(A.P.Nagrath)
Adm.Member

S.K.Agarwal
(S.K.Agarwal)
Judl.Member

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jrm