

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 29.6.2000

OA No.345/99

Govind Singh s/o Shri Mohan Lal, aged about 33 years at present employed on the post of Head Clerk at Jaipur in Jaipur Division, Western Railway.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager (Estab.), Western Railway, Jaipur Division, Jaipur.
3. Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner.

.. Respondents

Mr. Shiv Kumar, counsel for the applicant

Mr. U.D.Sharma, counsel for the respondents

CORAM:

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

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

ORDER

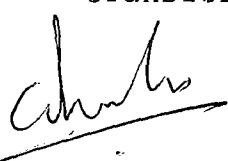
Per Hon'ble Mr. N.P.Nawani, Administrative Member

The applicant seeks following reliefs in this Original Application :-

"(i) That the respondents may be directed to count a seniority with effect from 1.8.1985 instead of 20.1.1989 on the post of Senior Clerk, pay scale of Rs. 1200-2040 and applicant may be allowed all consequential benefits after revising his seniority. The period with effect from 1.8.85 to 19.1.89 may also be counted for purpose of seniority with all consequential benefits.

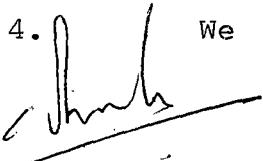
(ii) Any other order/directions/reliefs may be passed in favour of applicant which may be deemed fit, just and proper under the facts and circumstances of this case."

2. Facts, as stated by the applicant, are that he was initially appointed as Clerk in the scale of Rs. 950-1500 on 20.8.1983 in Bikaner Division and after seeking mutual transfer, he was posted in Jaipur Division in Western Railway.



He was allowed to officiate on the post of Senior Clerk w.e.f. 1.8.1985 to 19.1.89 continuously without any break in the pay scale of Rs. 1200-2040 and the pay for this period was also sanctioned vide order dated 9.4.1992 (Ann.A1). Thereafter a Limited Departmental Examination (for short LDE) for serving graduate candidates was conducted for the post of Senior Clerk by the Railway Board and the applicant was selected with <sup>Merit</sup> No.11 vide order dated 13.1.1989 (Ann.A2) and was given posting vide order dated 19.1.89 (Ann.A3). Thus the applicant worked as Senior Clerk on regular basis w.e.f. 20.1.1989. He was further promoted as Head Clerk, scale Rs. 1400-2300, vide order dated 31.3.1994 (Ann.A4). The applicant contends that his period of officiation on the post of Senior Clerk from 1.8.85 to 19.1.89 should be counted for seniority and accordingly made a representation (Ann.A5) but he was not granted such seniority, which action is illegal, arbitrary and against the rules.

3. In their reply, the respondents have strongly opposed the OA. It has been stated that the applicant had not officiated on the post of Senior Clerk in the scale of Rs. 1200-2040 from 1.8.85 to 19.1.89 as stated by him. He was actually holding the post of Clerk in the pay scale of Rs. 950-1500 and was only asked to perform the duties and functions on the retirement of one Shri Durga Prasad, Head Clerk during the aforementioned period. The post of Head Clerk was actually down-graded to that of Senior Clerk and, therefore, there was thus no post of Head Clerk and the applicant had only been discharging the duties and functions of Senior Clerk during the said period. The applicant was accordingly paid officiating charge allowance and the applicant himself never claimed the pay and allowances of the post of Senior Clerk for the said period and claimed only the charge allowances. It is, therefore, contended by the respondents that the applicant is not entitled to count the said period of 1.8.85 to 19.1.89 towards seniority in the post of Senior Clerk. It was also contended that the OA is barred by limitation, which cannot be condoned on the plea made that the applicant had earlier filed an OA No.84/99 concerning selection for the post of Chief Clerk which was subsequently withdrawn by him.

4.  We have heard the learned counsel for the parties

and perused the material on record.

5. The limited controversy in this OA is regarding the claim of the applicant for counting of his seniority on the post of Senior Clerk w.e.f. 1.8.85 instead of 20.1.89 on the basis of his assertion that he had officiated in the higher post of Senior Clerk from 1.8.85 to 19.1.89. From the reply of the respondents it is absolutely clear that the applicant was not given officiating promotion to the post of Senior Clerk during the above period; he was simply asked to discharge the duties and functions of the higher post, while continuing to hold the post of Clerk and drawing salary in the post of Clerk. In fact, the applicant himself had only claimed the charge allowance and not the higher pay scale of Senior Clerk during the said period. These contentions of the respondents have also not been controverted by the applicant by filing any rejoinder. We have, therefore no hesitation in accepting the contention of the respondents that the applicant did not officiate against the post of Senior Clerk during the period 1.8.85 to 19.1.89 and his claim to count his seniority in the post of Senior Clerk w.e.f. 1.8.85, instead of 20.1.89 has no merit. We are not going into the question of limitation in view of above findings.

6. The Original Application, therefore, does not succeed and is accordingly dismissed with no order as to costs.

  
(N.P. NAWANI)

Adm. Member

  
(S.K. AGARWAL)

Judicial Member