

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 407/2000
T.A. No.

199

KY(A)

See Thanks

May 11/05
In
2012

DATE OF DECISION

Petitioner

O.P. Sharma

Advocate for the Petitioner (s)

Mr. P.V. Calla

Versus

Respondent

The UOI and 3 others.

Advocate for the Respondent (s)

Mr. R.G. Gupta

CORAM :

The Hon'ble Mr.

Justice G.L.Gupta, Vice Chairman

The Hon'ble Mr.

H.O.Gupta, Administrative 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?

(H.O.Gupta)
Administrative Member

(G.L.Gupta)
Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR.

O.A. No. 407/2000

Date of decision: 21.02.03

O.P.Sharma
S/o Shri Chhotey Lal,
r/o Railway Quarter No. 75-A
Type II
Workshop Colony,
Kota Junction.

: Applicant.

rep. by Mr. P.V. Calla : Counsel for the applicant.

-versus-

1. The Union of India through
the General Manager,
Western Railway,
Churchgate
Mumbai.
2. The Divisional Railway Manager,
Western Railway,
Kota Division,
Kota.
3. The Chief Works Manager,
Western Railway,
Kota.
4. Shri Manoj Kumar Verma,
Janitor (Colony),
o/o Chief Works Manager,
Western Railway,
Kota Junction.

: Respondents.

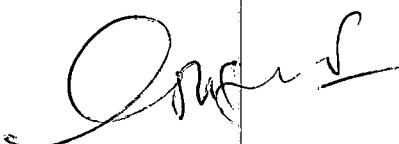
rep. by Mr. R.G. Gupta: Counsel for the respondents.

CORAM: The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman
The Hon'ble Mr. H.O.Gupta, Administrative Member.

ORDER

per Mr. Justice G.L.Gupta:

Through this Original Application the
applicant calls in question the orders Annex. A.1 dated
9.8.2000, A.2 dated 18.8.2000 and A.3 dated 24.8.2000.
It is prayed that the respondents be directed to allow



the applicant to work as Janitor (Colony).

2. The relevant facts on which there is no dispute between the parties are these. The applicant entered in service as Junior Clerk in July 1974. He was promoted to the post of Senior Clerk in 1983, in the scale of pay of Rs.1200-2040. While he was working as Senior Clerk, a notification was issued by the Divisional Office for filling up two posts of Janitor from the in-service candidates, which was in the scale of pay of Rs.425-700(revised Rs.1400-2300). The applicant applied for the post. After the written test and the interview, he was declared successful and his name was included in the panel Annex. A.6 dated 20.3.89. He was posted as Janitor vide order Annex. A.8 dated 28.3.89.

While working as Janitor in the pay scale of Rs.1400-2300, the applicant came to know that some of his juniors who were working as Senior Clerks were posted on the posts carrying special pay. He made representation for giving him posting as Senior Clerk/Head Clerk with special pay vide Annex. A.10. The respondents informed him that special pay was given to those senior clerks who were engaged in arduous nature duties and if the applicant wanted his reversion to the post of Senior Clerk he could express his willingness. The applicant expressed his willingness to go as Senior Clerk with special pay in his letter dated 25.9.91. He also made a declaration that he wanted his reversion for temporary period only but after five days on 18.11.91, he expressed his willingness for permanent reversion. His request was accepted by the competent authority in December 1991. The applicant was informed vide



communication dated 10.1.92 (Annex. A.18) that his name had been deleted from the panel prepared on 20.3.89. The applicant was relieved to join the Establishment Section and he joined on 21.9.92 as Senior Clerk with special pay. He continued therefor one year upto 21.9.93, which fact is stated in the O.A. at para 4.17.

The respondents thereafter invited fresh applications for posting as Janitor on adhoc basis. The applicant applied for the post and he was posted as Janitor on adhoc basis vide order dated 23.5.94. He joined the post on 1.6.94. He continued as Janitor till August 2000, when he was relieved and directed to join in the Establishment Section as Head Clerk vide order dated 24.8.2000. (Annex A.3).

The grievance of the applicant is that his name could not be removed from the panel vide order Annex. A.18 without the approval of the higher authority, under para 221 of the IREM Vol. I.

3. In the counter, the respondents' case is that the applicant himself sought his reversion from the post of Janitor to work as Senior Clerk with special pay and he was given the posting of Janitor on adhoc basis second time on his own request and now when the regularly selected Janitor is available he has been relieved. It is denied that there is violation of para 221 of the IREM Vol. I. It is stated that the applicant cannot assail the order Annex. A.18 after taking the benefit of the same for 8 years.



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

5. It is obvious from the facts stated in the O.A. that the applicant was empanelled as Janitor on provisional basis vide order dated 20.3.89 (Annex. A.6) and he was given the posting of Janitor. It is on his own request, that he was reverted to the post of Senior Clerk on permanent basis. The facts indicate that reversion to the post of Senior Clerk was beneficial to the applicant because that post carried special pay which was not there in the post of Janitor. It is seen that the order deleting the name of the applicant from the panel was conveyed to the applicant way back in January 1992, vide Annex. A.18. The applicant did not challenge that order obviously because it was beneficial to him and the order had been issued at his own written request. In our opinion, the applicant having taken the monetary benefit under the order of reversion, cannot challenge the same after 8 years.

6. The contention of the learned counsel for the applicant that the cause of action arose to the applicant, when he was removed from the post of Janitor vide order dated 24.8.2000(Annex. A.3) cannot be accepted. It may be pointed out that in the year 2000, the applicant was working on adhoc basis pursuant to the notification issued in the year 1993. The posting of the applicant as Janitor on adhoc basis in 1994 was not from the panel Annex. A.6. As a matter of fact the period of the panel had already expired in the year 1991 itself, in terms of para 220 of the IREM Vol. I, wherein it is stated that

Opn for

Panel drawn by the Selection Board and approved by the competent authority shall be current for two years from the date of approval by the competent authority or till these are exhausted whichever is earlier.

It is significant to point out that once the applicant had been given appointment on the basis of the panel Annex. A.6 along with one Laxman Dass Punjabi, the panel had exhausted on 20.3.89 itself, as there were only two posts of Janitor and both the posts had been filled up. Therefore, the panel did not survive even after 20.3.89.

7.

As already stated, the applicant was appointed as Janitor in the year 1994 on adhoc basis not because he was empanelled candidate, but because the applicant himself had vacated the post of Janitor claiming reversion and fresh ~~notification~~ for filling the vacancy had been issued. When regularly selected Janitor was available, the respondents had every right to send back the applicant to his original post of Head Clerk.

8.

As to the contention based on para 221 of IREM Vol. I, it is reproduced hereunder:

"Retention of name on the panel to be subject to continued suitability:-

"The retention of a railway servant's name on a panel will be subject to his/her continued suitability for the post in question. Notwithstanding anything to the contrary, the removal of a railway servant's name from the panel would require specific approval of the authority next above that which initially approved the panel."

It is laid down that removal of railway servant's name from the panel requires specific approval



of the authority next about which approved the panel. This para will apply only when Railway Servant who was selected and whose name was kept ~~in~~ in the panel but was not provided appointment to the post. This para is to be read subject to para 220 of the I&EM Vol. I, which clearly says that the ~~life~~ of the panel is only two years and it expires before if the same is exhausted earlier. As already stated, the panel had expired in the year 1989 itself when two persons, the applicant and another had been given appointment to the post of Janitor. Therefore the panel did not survive. The name of the applicant went out of the panel automatically when he was posted as Janitor in 1989. It was therefore not required to get the approval of the higher authority to delete the name of the applicant from the panel.

9. It is seen that the applicant has tried to take financial benefits some time by joining the post of Janitor and sometimes by seeking reversion to the post of Senior Clerk. The respondents cannot be said to have faulted when they issued Annexures A.1, A.2 and A.3 to the effect that the applicant was not entitled to continue on the post of Janitor.



10. No other point was argued before us.

11. As a result of the foregoing discussion
we find this O.A merit less and dismiss it.

12. No order as to costs.

(H.O. Gupta)
Administrative Member

(G.L.Gupta)
Vice Chairman.

jsv.