

4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 08.11.2000

OA No.497/2000 with MA No.367/2000

Ram Narayan Sharma S/o Shri B.L.Sharma working as Sr. Clerk in the office of Divisional Railway Manager, Western Railway, Jaipur.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Head Quarter Office, Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Divisional Railway Manager's Office, Power House Road, Jaipur.

.. Respondents

Mr. I.S.Malik, counsel for the applicant

CORAM:

Hon'ble Mr. Justice E.S.Raikote, Vice Chairman

Hon'ble Mr. H.P.Hawani, Administrative Member

Order

For Hon'ble Mr. Justice E.S.Raikote, Vice Chairman

This application has been filed for quashing the order dated 4.2.98 vide Ann.A1 with a further prayer that the respondents may be directed to treat the applicant ^{as} promoted w.e.f. 10.12.1997 with all consequential benefits.

2. In support of his prayer the applicant has stated that he was initially given promotion vide order dated 10.12.97 posting him to Phulera as Senior Clerk. Thereafter that post was floated and as a result the applicant was reverted. Thereafter the post was restored and applicant was promoted vide order dated 20.4.1999 (Ann.A13) that promotion was on regular basis.

3. The learned counsel for the applicant submitted that applicant is deemed to have been promoted w.e.f. 10.12.1997 vide Ann.A1 notwithstanding that he was reverted in the meantime. From

[Signature]

the material on record, we find that the applicant has qualified for the promotional post only vide Ann.A5 dated 16.3.1999. Under Ann.A3 he passed the prescribed examination for promotion to the post of Senior Clerk. From this it follows that the applicant was qualified for the promotional post of Senior Clerk only on 16.3.1999 on the basis of the examination conducted in the year 1999 and he was eligible for regular promotion. Consequently, applicant has been promoted on regular basis vide Ann.A13 dated 20.4.1999. From this it follows that the applicant's promotion on regular basis can be only w.e.f. 20th April, 1999. His earlier promotion was on ad-hoc basis then he was not qualified. In these circumstances, the short period of his promotion w.e.f. 10.12.97 cannot be treated as regular promotion and the same cannot be counted for any benefit. The learned counsel for the applicant has not brought to our notice any authority in support of his contention that such period is liable to be counted. However, the learned counsel for the applicant submits that his reversion was only due to floating of the post. Therefore, applicant's service during the period of his reversion may be taken into account. We are not required to take this into consideration because due to administrative reasons the posts can float and applicant was promoted on such a post and when the post is not available he was rightly reverted. Moreover, it is not the case of the applicant that his juniors were not reverted and he was reverted. In the circumstances, we do not find any merit in this application.

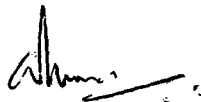
4. The applicant was really aggrieved by the order of reversion vide Ann.A1. He should immediately approach the Tribunal within the ^{he} period of limitation which/has not done also. He has done this after the prescribed period of limitation was over and for that purpose he has filed a Misc. application. But we do not find any

M

6

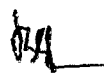
: 3 :

reason to condone the delay. From the above, we find no merit in the Original Application and the application of delay and both are dismissed but in the circumstances without any costs.



(N.P.NAWANI)

Adm. Member



(P.S.RAIKOTE)

Vice Chairman

DE.

8