

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 21.11.2000

OA No.526/2000

Rajan Dheer s/o Shri R.S.Dheer, at present working on the post of Chief Reservation Supervisor in the office of Senior Divisional Commercial Manager, Western Railway, Jaipur Division, Jaipur r/o S-3-B, Krishna Kunj, Kabir Marg, Bani Park, Jaipur.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur
3. The Sr. Divisional Commercial Manager, Western Railway, Jaipur Division, Jaipur.
4. Shri Dana Ram, Chief Reservation Inspector, O/o Chief Reservation Supervisor, Western Railway, Jaipur Division, Jaipur

.. Respondents

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

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CORAM:

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

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

Order

Per Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

This application has been filed by the applicant for quashing the impugned notification dated 9.11.2000 (Ann.A1). His further prayer is to direct the respondents to conduct the selection for the post of Chief Reservation Supervisor afresh after allowing the applicant alongwith other eligible candidates. He also prays that there should be directions to the respondents not to accord appointment to respondent No.4 on the basis of notification dated



18.7.2000 vide Ann.A5.

2. The case of the applicant is that vide order dated 28.4.1993, he was promoted provisionally from the post of Reservation Supervisor (in the pay scale Rs. 5500-9000) to the post of Chief Reservation Supervisor (in the pay scale of Rs. 6500-10500) and now on the basis of Ann.A1, the impugned show-cause notice, he is sought to be reverted to the post of Reservation Supervisor. He submitted that he is now sought to be reverted only because the post on which the applicant was appointed provisionally is taken as one reserved for Scheduled Caste category as per the roster point but if 15% reservation is taken, this point No.4 cannot be one earmarked for the Scheduled Caste category. Therefore, the roster appears to be itself not correct. The applicant also submitted that though the post on which he was promoted on provisional basis is a selection post but he has been promoted being the seniormost in the feeding cadre. Therefore, the Department cannot revert the applicant to the lower post of Reservation Supervisor. The learned counsel for the applicant contended that inspite of reverting him an opportunity should have been given to the applicant and other similarly situated persons to pass the selection test and continue in the promotional post.

3. The learned counsel appearing for the applicant, reiterating the same, contended that there should be appropriate directions to the respondents as prayed for. The learned counsel for the applicant also submitted that the post on which the applicant was promoted vide order dated 28.4.1993 (Ann.A4) on provisional basis, is a selection post and that promotion vide Ann.A4 was not on the basis of any selection. He further submitted that since he was the seniormost person in the feeding cadre, he has been rightly promoted and nothing prevents the Department from holding the test

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or selection to the promotional post and instead of doing that they are illegally reverting the applicant. He also submitted that the notification dated 18.7.2000 earmarking the post for Scheduled Caste community was illegal. It is only on the basis of this notification vide Ann.A5 the applicant is sought to be reverted for giving promotion to respondent No.4 who belongs to the Scheduled Caste community. From this pleading, it is clear that the Department has already notified the post which the applicant is holding as one belonging to the Scheduled Caste category as per the roster system. It is too late to challenge the roster system which is in operation since a long time. Moreover, in the prayer column of this application, there is no prayer to declare such a roster as illegal. As long as the roster stands and point No.4 in the roster, it is earmarked for the Scheduled Caste category candidates, the applicant being a General category candidate cannot have any right on that particular post. After all, his promotion vide Ann.A4 was only provisional, and admittedly it is a selection post and, if that is so, the applicant could not have straightaway promoted to the post in question vide Ann.A4 dated 28.4.1993 without holding necessary selection process calling for applications from others who are eligible. As the promotion vide order Ann.A4 itself indicate that a provisional promotion was given to the applicant only as a stop-gap arrangement or on ad-hoc basis, and on the basis of Ann.A4 the applicant cannot get any right as long as it is a selection post and he is not selected to that post, more so when the post is earmarked for Scheduled Caste candidate as per the roster in operation. The applicant being a candidate belonging to General category, he cannot have any right to the said post.

4. The learned counsel for the applicant further sought that the applicant should also have been given an opportunity to contest in the said selection notified but this argument also cannot be



accepted for the simple reason that when the post is earmarked for Scheduled Caste category, the applicant could not have been notified since he belongs to the General Category. Therefore, he has no right to compete for that post for the purpose of selection. If the applicant really had any substance in the legal stand, he could have represented in pursuance of the show-cause notice issued to him on 9.11.2000 and instead of doing that he has rushed to this Tribunal at his own risk.

5. For the above reasons, we do not find any merit in this application. Accordingly, the application is dismissed at the admission stage.



(N.P.NAWANI)

Adm. Member



(B.S.RAIKOTE)

Vice Chairman