

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 17 August, 2001

OA No.290/2001 with

MA No.230/2001 and MA No.259/2001

Musaddi Lal Kalaria s/o Shri Tota Ram Kalaria, presently posted as Chief Office Superintendent, D.R.M.Office (Estt Branch) Western Railway, Jaipur r/o Quarter No.217/4, Road No.6, Ganpati Nagar, Jaipur.

..Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Jaipur
3. Suresh Chand Pareek s/o Shri Hanuman Prasad Pareek, presently working on the post of Office Superintendent Grade-I in the pay scale of Rs. 6500-10500 in the D.R.M. Office, Western Railway, Jaipur
4. Ram Phal Sevach s/o Shri Mehar Chand Sevach, presently working on the post of Office Superintendent Grade-I in the pay scale of Rs. 6500-10500 in the D.R.M. Office, Western Railway, Jaipur
5. Smt. Sadhana Relia w/o Shri Harsh Relia, presently working on the post of Office Superintendent Grade-I in the pay scale of Rs. 6500-10500 in the D.R.M. Office, Western Railway, Jaipur
6. R.P.Yadav s/o Shri Ramdev Yadav, presently working on the post of Office Superintendent Grade-I in the pay scale of Rs. 6500-10500 in the D.R.M. Office, Western Railway, Jaipur
7. R.K.Kashyap s/o Shri K.C.Kashyap, presently working on the post of Office Superintendent Grade-I in the pay scale of Rs. 6500-10500 in the D.R.M. Office, Western

Corpus of

Railway, Jaipur

.. Respondents

Mr. Nand Kishore, counsel for the applicant

Mr. Manish Bhandari, counsel for the respondents Nos. 1 & 2

Mr. P.V.Calla, counsel for respondent Nos. 3 to 7.

CORAM:

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

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant, Musaddi Lal Kaloria, has prayed for quashing the impugned order dated 6.7.2001 (Ann.A1), letter dated 3.7.2001 (Ann.A14) and the seniority list dated 27.4.2001 (Ann.A12) and for a direction to the respondents to restore the seniority list dated 16.8.2000 in which the name of the applicant was shown at Sl.No.1.

2. Undisputed facts of the case are that in pursuance to the judgment of this Tribunal dated 29.3.2001 passed in OA Nos. 111/2000, 171/2000 and 189/2000 as also the judgment of Hon'ble the Supreme Court in the case of Ajit Singh-II, the official respondents revised the seniority list of various posts in the clerical grade vide their letter dated 27.4.2001 (Ann.A12). In the seniority list of Chief Office Superintendent (for short COS) pay scale Rs. 7450-11500, names of 3 persons are indicated and the applicant's name figures at SL.No.3. It has also been pointed out in this seniority list that SL.No.3 is proposed to be reverted to Office Superintendent Grade-I (for short OS-I) scale Rs. 6500-10500. Subsequently, the respondents Department vide their order dated 6.7.2001 have ordered reversion of the applicant to the post of OS-I. The respondent Department also

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rejected the representation of the applicant in this regard vide their letter dated 3.7.2001 (Ann.A14). Feeling aggrieved, the applicant has filed this OA. This Tribunal had by its order dated 11.7.2001 stayed the operation of the order dated 6.7.2001 (Ann.A1).

3. Shri Suresh Chand Pareek, Shri Ram Phal Sevach, Smt. Sadhana Relia, Shri R.P.Yadav and Shri R.K.Kashyap moved a Misc. Application No. 226/2001 for impleading themselves as party respondents and after hearing both the parties, Misc. Application No. 226/2001 was allowed and the applicants therein were allowed to be arrayed amongst the party respondents. Simultaneously, the applicants in MA No. 226/2001 also moved a Misc. Application No.259/2001 praying for vacation of the stay granted to the applicant in OA No.290/2001. Similarly, the official respondents moved a Misc. Application No.230/2001 for vacation of stay granted in favour of the applicant in OA No.290/2001.

4. The matter was posted on 14.8.2001 for consideration of the Misc. Applications filed by private respondents as well as Railways for vacating the stay. However, with the consent of all the parties, the matter was heard finally on merits.

5. The contention of the applicant is that he has been promoted to the post of Senior Clerk, Head Clerk, Chief Clerk and OS-I much earlier to Shri Rameshwar Prasad Sharma, Smt. Rekha Sharma, Shri N.K.Arcora, Shri Nanag Ram and Shri Suresh Chand Pareek and, therefore, it is contended by him that since he was born on earlier panel than the private respondents, he should be treated as senior to them on various posts mentioned above as per the law laid down by Hon'ble the Supreme Court in the case of Virpal Singh Chauhan and R.K.Sabharwal. On the other hand, it has been contended by the respondents that in terms of the judgment of Hon'ble the Supreme Court in Ajit Singh-II

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case, if a general category candidate catches up with a reserved category candidate, the senior general category candidate would regain his seniority over the junior reserved category candidate promoted earlier and the seniority will be recast on the basis of base grade seniority. The respondents have accordingly recast the seniority on the basis of base grade and according to that seniority the applicant was not entitled for promotion to the post of COS and accordingly he was reverted vide respondents letter dated 6.7.2001 (Ann.A1). It has, therefore, been submitted by the official respondents that they have acted as per the law laid down by Hon'ble the Supreme Court and the application is devoid of any merit and is liable to be dismissed.

6. We have heard the learned counsel for the parties and perused the record of the case carefully.

7. The applicant vide Ann.A19 and Ann.A20 has placed on record a comparative statement of service particulars in respect of himself and S/Shri Rameshwar Prasad Sharma, Smt. Rekha Sharma, Shri N.K.Arora, Shri Nanag Ram Gupta and Shri Suresh Chand Pareek. It is seen from Ann.A19 that whereas the applicant joined the service initially as Clerk on 23.5.1974 rest of the persons, mentioned above, joined the service as Clerk prior to 1973. S/Shri Rameshwar Prasad Sharma, Smt. Rekha Sharma, Shri N.K.Arora, Shri Nanag Ram Gupta and Shri Suresh Chand Pareek were all senior to him in the cadre of Clerk. Shri N.K.Arora and Shri Nanag Ram Gupta had come on unilateral transfer on 25.2.1975 and 4.9.76 to the Unit where the applicant was working and thus, both of them become junior to the applicant. Subsequently, the applicant was given promotion as Senior Clerk, Head Clerk, Chief Clerk and OS Grade-I earlier to Shri Rameshwar Prasad Sharma, Smt. Rekha Sharma, Shri N.K.Arora, Shri Nanag Ram Gupta and Shri Suresh Chand Pareek. It is the contention of the applicant that

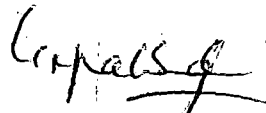
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he had been placed on earlier panel for various posts than the other persons mentioned above and hence, he was senior to them as per the law laid down by Hon'ble the Supreme Court. It may be pointed out at this stage that the applicant was given promotion to higher posts on the basis of roster reservation and in terms of the latest law laid down by Hon'ble the Supreme Court, if a general category senior candidate catches up with a junior reserved category candidate, the general category senior candidate would regain seniority over the reserved category junior candidate promoted earlier. Since Shri Rameshwar Prasad Sharma, Smt. Rekha Sharma and Shri Suresh Chand Pareek were all senior to him in the base grade of Clerk and were all promoted as OS-I before the applicant could be promoted to the next higher post of COS, they would regain seniority over the applicant as per the law laid down by Hon'ble the Supreme Court in the case of Ajit Singh-II. The seniority list drawn-up by respondents vide Ann.A12 for the post of OS-I places Smt. Rekha Sharma, Shri N.K.Arora and Shri Suresh Chand Pareek above the applicant. The contention of the applicant that since he was placed on the earlier panel, he should continue to be senior to Smt. Rekha Sharma, Shri N.K.Arora and Shri Suresh Chand Pareek, is not sustainable in the eyes of the law laid down by Hon'ble the Supreme Court. It has already been pointed out that the applicant was placed on earlier panel than the other persons only because of roster reservation and as per the law laid down by Hon'ble the Supreme Court, if a senior general category candidate catches up with a junior reserved candidate, the senior general category candidate would regain seniority over the junior reserved category candidate promoted earlier. In this view of the matter, we do not find any infirmity in the seniority list published by the respondents vide their letter dated 27.4.2001 (Ann.A12). The cadre of COS came into existence by way of upgradation and there were only 3 posts in the cadre. As per the 'L' shape roster introduced by the Government of India for the purpose

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of reservation in small cadres, in this cadre of 3 posts, no post can be reserved for SC or ST as such applicant promoted as COS w.e.f. 10.5.98 was in excess of the prescribed quota of reservation and therefore, he has rightly been reverted vide respondents' letter dated 6.7.2001 (Ann.A1). Thus, we do not find any merit in this application and the same deserves to be dismissed.

8. The OA is accordingly dismissed. The stay granted vide order dated 11.7.2001 stands vacated. No costs.


(GOPAL SINGH)

Adm. Member


(B.S. RAIKOTE)

Vice Chairman