

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 31/12/2002

OA 34/2002

1. Prithvi Raj, HTTE, Western Railway, Ajmer.
2. Kamal Kishore Verma, HTTE, Western Railway, Ajmer.

... Applicants

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Divisional Rly Manager, Western Railway, Ajmer Division, Ajmer.

... Respondents

CORAM:

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

HON'BLE MR.J.K.KAUSHIK, JUDL.MEMBER

For the Applicant

... Mr.Nand Kishore

For the Respondents

... Mr.T.P.Sharma

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

Both the applicants were initially appointed as Ticket Collectors. Vide order dated 23.11.95 (Ann.A/2) they were promoted to the post of HTC in the pay scale of Rs.1400-2300, on ad hoc basis. They both belong to SC community. In the cadre, there is a scheme of step posting inasmuch as the seniors amongst HTCs are posted as HTTEs, grades of both the posts being similar i.e. Rs.5000-8000. Vide order dated 18.3.96 (Ann.A/3) both the applicants were given this step posting and posted as HTTEs at Ajmer. Subsequently, vide another order dated 9.1.2002 (Ann.A/1) five persons were posted as HTTEs and both the applicants were displaced and posted as HTC. By filing this OA they have challenged this order on the ground that in the regular selection held for the post of HTCs/HTTEs pay scale of Rs.5000-8000 S/Shri Jeevan Kishore Bhardwaj and Jeevat Ram Geedwani had not been found suitable, whereas both the applicants had duly qualified. Result of the said selection was declared vide letter dated 5.11.99 (Ann.A/4). The cause of action, as per the applicants, is that despite having declared successful in the selection, the respondents have gone to the extent of displacing them from the post of HTTE and put in those who ^{were} declared failed in the qualifying examination.

2. The learned counsel for the applicant, Shri Nand Kishore, very

vehemently assailed the action of the respondents and submitted that this action has resulted into lowering the status of the applicants. According to him, this action of the respondents is also violative of the principle established by Hon'ble the Supreme Court in the two cases of Ajit Singh Januja-II and Jatinder Pal Singh, and stated that the SC/ST candidates who were already in position prior to 1.4.97 could not have been reverted and replaced by general community candidates. To substantiate the claim of the applicants that it was a matter of reversion, the learned counsel placed reliance on the judgement of High Court of Kerala dated 7.12.81, N.V.Phaneendra v. UOI & Ors., and order of this Bench of the Tribunal in OA 164/98, Shekhar Katara v. UOI & Ors., decided on 7.10.99. Copies of these judgements/orders are placed at Anns.A/7 & A/8 respectively. The contention of the learned counsel was that the impugned order is totally illegal and is not sustainable in view of the settled legal position.

3. On the other hand, the learned counsel for the respondents, Shri T.P.Sharma, referred to the two orders of the same date i.e. 26.2.2002 (Anns.R/2 & R/3) and submitted that the cause of action does not survive in this case as both Jeevan Kishore Bhardwaj and Jeevat Ram Geedwani have been reverted because of their having been found unsuitable in the selection. While referring to the placement of the successful candidates as HTTEs, the learned counsel mentioned that none of the juniors to the applicants have been posted as HTTEs. For this reason, he strongly contended that the applicants have no cause of grievance at all.

4. We have considered the rival contentions carefully and we have no manner of hesitation to come to a conclusion that the impugned order dated 9.1.2002 was totally misconceived. It is not in dispute that this order has been issued after result of the selection to the post of HTC/HTTE had been finalised. To post unsuccessful candidates as HTTEs by replacing those who were already holding the position and were successful in the selection, is beyond comprehension. No doubt, this arrangement remained only for a short period of about one and a half month but the reason for resorting to this arrangement can only be deprecated. Having said that, we find that by virtue of order dated 26.2.2002 only seniors regularly selected candidates have been posted as HTTEs. Both the applicants were given this position only on ad hoc basis and ad hoc arrangements do not create long term rights

in favour of the holders of these posts in such capacity. The reliance on the cases of Ajit Singh Januja-II and Jatinder Pal Singh was misplaced as those relate to deciding the respective seniority of the general category candidates and SC/ST candidates in the event of promotion from one grade to the next. In the case before us, there is no change in the grade. In the situation of said posting, no reservation applies and only the senior persons are posted as HTTEs. Regularly selected senior persons have been posted vide orders dated 26.2.2002 and the applicants have no cause of making a grievance out of this posting.

5. There is no merit in this case and the OA is dismissed. Parties are left to bear their own costs.

J.K. Kaushik

(J.K. KAUSHIK)
MEMBER (J)

A.P. Nagrath
(A.P. NAGRATH)
MEMBER (A)