

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No. 10/03

Jabalpur, this the ^{16th} day of December 2004

CO R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Vinod Verma
S/o Shri Babulal Verma
Station Superintendent Berchha
Division Ratlam
Western Railway

Applicant

(By advocate Shri A.K.Tiwari on behalf of Shri S.Yadav)

Versus

1. Union of India through its
General Manager
Western Railway
Churchgate, Mumbai.
2. Divisional Railway Manager
Ratlam Division
Western Railway
Ratlam.
3. Senior Divisional Personal Officer
Western Railway, Ratlam.

Respondents

(By advocate Shri M.N.Banerjee)

OR D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following main reliefs:

- (i) Set aside the orders dated 10.12.02 and 30.12.02 and restore the seniority of the applicant to its original position as was granted to him in the year 1998.

(ii) Direct the respondents not to revert the applicant from the post of Station Superintendent.

2. The brief facts of the case are that the applicant was initially appointed as Assistant Station Master vide order dated 15.5.86 (Annexure A3). On the basis of seniority, the applicant was considered for promotion to the post of Station Master in the grade of Rs.1600-2660 and by order dated 25.4.95 he was promoted. However, because of some personal difficulties, the applicant had to forego the same on 27.4.95. The applicant was again considered for promotion by order dated 14.10.96 and again because of personal reasons, he had to forego the said promotion by order dated 27.10.96 (Annexure A6). If promotion is declined, the incumbent is debarred for a year but his name is not deleted from the select list and after one year the same is reactivated. After completion of one year, the applicant was promoted by order dated 17.3.98 (Annexure A7). In the seniority list published on 26.10.98, the applicant was placed at Sl.No.294. In the gradation list published in 2001 also, the applicant was granted the same status. Promotion from the post of Station Master is to that of Station Superintendent and the applicant being within the zone of consideration was called to appear in the written test in the category of SC. The applicant has filed Annexure A10 in which his name appears at Sl.No.53. The applicant was finally selected and promoted to the post of Station Superintendent by order dated 7.12.2001 (Annexure A12). While he was discharging his duties so, there were certain complaints against his placement in the seniority list of Station Masters and these became the subject matter of an item of permanent negotiating machinery known as PNM and by order dated 9.9.02 the PNM item 8/02 was decided in favour of the applicant. The respondents rightly decided the PNM and the applicant was rightly accorded the seniority. However, the respondents without appreciating the aforesaid decision taken in the PNM, issued a notice dated 25.11.02 informing the applicant that his position in the seniority list of Station Superintendent was being changed. He made a representation dated 3.12.02. The respondents passed orders dated 10.12.02 and 30.12.02 arbitrarily changing the seniority and reverting the

applicant. This action of the respondents is wholly illegal and liable to be set aside. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that it is correct to say that he had foregone two promotions offered by the respondents due to family circumstances and he was ultimately promoted vide order dated 17.3.98 and he was assigned proper placement in the seniority in accordance with para 224 of IREM but when the applicant was performing duties as Station Superintendent, he was suddenly informed that his seniority has been wrongly fixed. The applicant protested against that but he was placed below one Bupsingh at Sl.No.315A of seniority list dated 26.10.98 and the respondents reverted the applicant from the post of Station Superintendent to the post of Station Master by order dated 30.12.2002. The action of the respondents is against rules and law and is wholly unjustified.

4. In reply, the learned counsel for the respondents argued that the applicant was for the first time promoted on the post of Station Master/Asstt. Station Master vide order dated 25.4.95 (Annexure R1). The applicant expressed his unwillingness to accept the promotion due to family circumstances. Accordingly he was debarred for promotion for one year as per rule. After one year, he was again promoted. However, the applicant again expressed his unwillingness to accept the above promotion. Therefore, the applicant was debarred for one year again. As per para 224 (i) & (ii) of IREM, an employee foregoing promotion twice is to be considered afresh as per his turn in next promotion and the employee's suitability will be adjudged afresh when his turn comes for promotion. There was no relevancy with the earlier promotion orders issued in favour of the applicant for which he had refused twice and debarred as per rules. The seniority of the applicant was assigned wrongly in reference to one Pooran Singh. It also came to the notice that the name of Pooran Singh was left out in the seniority list by mistake. Therefore the seniority was required to be revised and respondents by rectifying its

mistake assigned a proper seniority position to the applicant on the basis of his promotion order. The mistake was corrected and the applicant was reverted to the post of ASM/SM. A show cause notice Annexure A15 was issued prior to correcting the mistake and for revision his seniority and consequential reversion. The applicant's representation was also considered. Hence the action of the respondents is legal and justified.

5. After hearing the learned counsel for the parties and carefully perusing the records, we find that the applicant was promoted for the first time on the post of Station Master/Assistant Station Master in the scale of Rs.1600-2660 (now revised to scale 5500-9000) by order dated 25.4.95 (Annexure R1). The applicant did not accept this promotion vide his application dated 27.4.95. Accordingly he was debarred for one year vide order dated 9.5.95. After one year when he was promoted, he again declined his promotion vide application dated 27.10.96. Again he was debarred for promotion for one year vide order dated 18.11.96 and subsequently he was promoted vide order dated 17.3.98 when vacancy arose (Annexure A8). Meanwhile a seniority list of SM/ASM was published on 22.11.2001 in which the applicant's name is appearing at Sl.No.133 and his seniority has been assigned as per rules. Further as the applicant had qualified in the written test as well as viva voce, he was empanelled on the post of Station Superintendent by order dated 10.1.02 . The seniority of the applicant was assigned wrongly in reference to one Pooran Singh. It also came to the notice that the name of Pooran Singh was left out in the seniority list by mistake. Therefore the seniority was required to be revised and respondents by rectifying its mistake assigned a proper seniority position to the applicant on the basis of his promotion order. The mistake was corrected and the applicant was reverted to the post of ASM/SM. A show cause notice Annexure A15 was issued prior to correcting the mistake and for revision his seniority and consequential reversion. The applicant's representation was also considered. Legally the respondents have the right to correct any mistake or error or omission according to rules and they have corrected the apparent mistake by

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affording a reasonable opportunity to the applicant to show cause and hearing.

6. Considering all the facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judiciaal Member

(M.P.Singh)
Vice Chairman

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पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....
प्रतिवित्ति अध्ये दिन:-
(1) सचिव, उच्च न्यायालय आद एवं विद्युत्यान, जबलपुर
(2) आवेदक श्री/श्रीमती/यु., के काउंसल S.Yadav Ad. 238
(3) प्रत्यार्थी श्री/श्रीमती/यु., के काउंसल M.N.Benarjee Ad.
(4) वांद्याल, को.प्र.अ., जबलपुर व्यायामीठ
सूचना एवं आवश्यक कार्यवाही हेतु
उप संजिस्ट्रार

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