

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 401 of 2003

Jabalpur, this the 21st day of November, 2003

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri G.Shanthappa - Judicial Member

Smt.Anju Mukerji, aged about 41 years,
W/o late Shri Arup Mukerji, Steno Grade-II,
West Central Railway under Sr.DME(D),
New Yard Itarsi (M.P.) District-Hoshangabad(MP) - APPLICANT

(By Advocate - Shri L.S.Rajput)

Versus

Union of India, through

1. General Manager, West Central Railway,
Near Railway Station, Indira Market,
Jabalpur (M.P.)-482001

2. General Manager, Central Railway,
Mumbai-CST (Maharashtra).

3. Divisional Railway Manager,
West Central Railway, DRM's Officer,
Habibganj, Bhopal (M.P.).

- RESPONDENTS

(By Advocate - Shri N.S.Ruprah)

O R D E R

By M.P.Singh, Vice Chairman -

In this Original Application the applicant has challenged the order dated 30.5.2003 (Annexure-A-1) and has also sought a direction to the respondents to continue to maintain the lien of the applicant as Senior Stenographer Grade-II in the scale of Rs.5000-8000 on Bhopal Division without any break, and with all consequential benefits including seniority and protection of pay.

2. The brief facts of the case are that the applicant was appointed as Stenographer Grade-III in the pay scale of Rs.1200-2040 on 14th May, 1986. She was promoted as Senior Stenographer/Stenographer Grade-II in the pay scale of Rs.1400-2600 (revised to Rs.5000-8000) with effect from 1.8.1989 on regular basis. Thereafter due to change in family circumstances, the applicant had opted for transfer to Pune Division against a lower post of Stenographer

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Grade-III in the scale of Rs.4000-6000 and she was relieved on 20.6.2001. However, she again made a request for her repatriation to Bhopal Division and her request was acceded to and she was re-transferred to Bhopal Division on 15.11.2002. The respondents have appointed her, on her transfer to Bhopal Division, in the grade of Rs.5000-8000 under the Chairman, Railway Recruitment Board, Bhopal, with effect from 13.2.2003 (Annexure-A-11). On 4th April, 2003 the transfer order was modified and she was posted as Stenographer Grade-II (Rs.5000-8000) under Senior Divisional Mechanical Engineer (D) Itarsi. On 30.5.2003 the respondents have passed the impugned order (Annexure-A-1) reverting her to the grade of Rs.4000-6000 treating her repatriation at her own request. Aggrieved by this, she has filed this Original Application.

3. We have heard the learned counsel for the parties and have also carefully perused the pleadings & records.

4. The learned counsel for the applicant has submitted that the applicant was transferred to Pune and appointed as Stenographer Grade-III but her lien was maintained at Bhopal Division in the scale of Rs.5000-8000. While she was working at Pune, a seniority list of Senior Stenographers was issued by the Bhopal Division and her name was shown in that seniority list. The learned counsel has also drawn our attention to the letters dated 5.6.2001 (Annexure-A-7), 20.5.2002 (Annexure-A-17), 13.2.2003 (Annexure-A-11) and 4.4.2003 (Annexure-A-12), and submitted that these documents clearly indicate that the seniority and lien of the applicant was being maintained at Bhopal Division in the pay scale of Rs.5000-8000 even though she was working at Pune. He has also submitted that Pune Division was not maintaining the lien of the Stenographers and on the repatriation of the applicant to Bhopal Division, her pay was rightly fixed in the grade of Rs.5000-8000. All of a sudden the respondents have issued the impugned order dated 30.5.2003 reverting

her from pay scale of Rs.5000-8000 to Rs.4000-6000. No notice has been issued to the applicant before her reversion. Therefore, the impugned order dated 30.5.2003¹ is not sustainable in the eye of law.

5. On the other hand the learned counsel for the respondents has stated that the applicant was transferred to Pune Division in the pay scale of Rs.4000-6000 at her own request and she was given the bottom seniority in that scale in Pune Division. She was absorbed in the scale of Rs.4000-6000 and hence her lien in Bhopal Division was terminated. Since she has come^{at} her on request in Bhopal Division again, she has rightly been placed in the scale of Rs.4000-6000. He has drawn our attention to office order dated 26.6.2001 (Annexure-R-V) which states that Pune Division was not having its cadre and the applicant's lien remained maintained in Mumbai Division against the vacancy of Stenographers transferred from Mumbai Division. He has also drawn our attention to letter dated 7th August, 2001 (Annexure-R-III) issued by the Headquarters Office, Mumbai CST wherein it has been stated that vacancy caused due to the transfer of the applicant (Smt. Anju Mukherjee) can be filled that by the DRM, Bhopal. He submitted/ from this letter it can be inferred that the lien of the applicant had been terminated in Bhopal Division.

6. We have carefully perused the relevant records and other material available. We find that the applicant was working at Bhopal Division in the pay scale of Rs.5000-8000. We observed² from the letter dated 1.11.1996 (Annexure-A-2) that Pune Division had invited options from volunteers for the post of Stenographers in the grade of Rs.1200-2040. In that circular it is specifically mentioned that options will be on administrative account protecting their lien maintained in their parent division/unit till such time the cadre of Pune Division is not closed. We have also perused the letter/ dated

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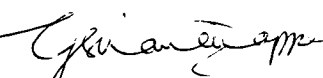
5.6.2001(Annexure-A-7) issued by the Headquarters Office, CST Mumbai wherein it is specifically mentioned that the "sanction of the competent authority is communicated for transfer of Smt. Anju Mukherji (applicant), Steno Gr. II in Gr. Rs. 5000-8000 (RSRP), DRM's Office BPL to DRM's Office/PA as Steno Gr. III in Gr. Rs. 4000-6000 (RSRP) on bottom seniority. Her lien/seniority will be maintained in her parent Department i.e. on BPL Divn. as per instructions issued vide this office letter no...dated 15.10.96". Thereafter, the Bhopal Division has issued another letter dated 20.6.2001 (Annexure-A-8) in terms of aforesaid letter dated 5.6.2001 in which it has been stated that "her lien/seniority will be maintained on BPL Divn. till her absorption to PA division". We have also perused the ^{of Stenographers, Gr. II (Rs. 5000-8000)} seniority list dated 20.5.2002 (Annexure-A-17) wherein the applicant's name has been shown at serial no. 2. The applicant has been repatriated and joined her parent office on 15th November, 2002. We have also perused the provisions of the Indian Railway Establishment Code, Vol. 1 (Rule 242) which provides that "a railway servant's lien on a post may, in no circumstances be terminated, even with his consent, if the result will be to leave him without a lien or a suspended lien upon a permanent post".

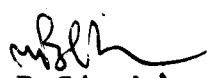
7. From the above facts, it is abundantly clear that the lien/seniority of the applicant in the grade of Rs. 5000-8000 was being maintained on Bhopal Division as directed by the Zonal office vide their letter dated 5.6.2001(Annexure-A-7). Moreover, the Pune Division vide letter dated 1.11.1996(Annexure-A-2) while calling for the options had also specifically stated that "the options will be on administrative account protecting their lien maintained in their parent division/units till such time the cadre of Pune Division is not closed." There is no letter on record

issued either by the DRM, Pune or Bhopal Division which shows that her lien was ~~not~~ terminated either by the Bhopal Division or Pune Division, and moreover neither the Pune Division nor the Bhopal Division is competent to terminate her lien from Bhopal division, without the approval of the zonal office which has issued the specific directions in this regard to maintain the lien of the applicant at Bhopal division. Therefore, it was because of these facts that her lien was maintained by the Bhopal division and her name was also being shown in the seniority list of Stenographers Grade-II (Rs.5000-8000) and she was rightly appointed in the pay scale of Rs.5000-8000 on her repatriation from Pune Division to Bhopal Division.

8. In view of the above facts, we are of the considered view that the impugned order issued on 30.5.2003 reverting the applicant from the grade of Rs.5000-8000 to the pay scale of Rs.4000-6000 is, ^htherefore, not sustainable in the eye of law and is liable to the quashed.

9. In the result, the O.A. is allowed. The impugned order dated 30.5.2003 is set aside. The respondents are directed to grant all consequential benefits to the applicant including seniority, ^{and} ~~and back wages~~. The respondents are, further directed to comply with the above orders within a period of two months from the date of communication of this order. The interim order dated 26.6.2003 merges with this final order. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

rkv.

*Filed
on
21/11/03*

*LS Rajput, Adm.
NS Ruprah, Adm.*

Shankar

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