

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

OA No.875/2002

Indore, this the 23rd day of July, 2004.

CORAM

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

Arvind Dinkar Prachand
S/o late Dinkar K.Prachand
Retired Head Ticket Collector
Western Railway.
R/o H/33, Narmada Colony
Scheme No.78, P.O.Vijayanagar
Indore.

...Applicant

(By advocate Shri D.M.Kulkarni)

Versus

1. Union of India (Ministry of Railways)
through Chairman, Railway Board
New Delhi.
2. General Manager, Western Railway
Churchgate, Mumbai.
3. Divisional Rail Manager
Western Railway, Ratlam.
4. State of Madhya Pradesh
represented by Principal
Secretary, Commercial Tax
Department, Vallabh Bhawan
Bhopal.

...Respondents

(By advocate Shri Y.I.Mehta)

O R D E R

By Madan Mohan, Judicial Member

The applicant seeks the following reliefs:

- (i) To declare that the applicant is entitled to treat the period from 12.5.64 to 18.5.76, the first spell of his service under respondent No.4 as qualifying service (total service 32 years and 10 days inclusive of the service period as Ticket Collector) towards the pensionary service.
- (ii) The respondents 1 to 3 be directed to revise the PPO of the applicant accordingly and arrears of pensionary benefits i.e. pension, gratuity, encashment of EL etc be given to him with interest at the current market rate.

2. The brief facts of the OA are as follows:


The applicant was appointed on the post of LDC in MP State Sales Tax Department on 8.5.64 under respondent No.4 and he joined his post on 12.5.64 and he served upto 14.6.74.

He held lien on his substantive post. The applicant applied for the post of Ticket Collector in Railways through his parent



department.. The applicant was relieved from the post of LDC to join the Railways and he joined his duties as Ticket Collector at Bombay Central on 19.8.74. He served on this post from 18.5.74 to 1.5.75 at Khar Road Station in Bombay. Due to serious illness of the applicant's son at Indore in Madhya Pradesh, he requested respondent No.2 and 3 to repatriate him to his substantive post to which he held lien for three years and this request was granted by the respondents. On his relief, the applicant worked on his substantive post of LDC under respondent No.4 from 2.5.75 to 18.5.76. The applicant represented through proper channel to respondent No.2 if he could be appointed as Ticket Collector on the basis of his previous appointment by relaxation of his age. The request was granted by respondent No.2 by order dated 23.4.76 subject to the condition that his re-appointment would be fresh for all purposes and would not imply continuity of service with the previous employment or other benefits or privileges.(Annexure A-6).


The applicant joined the post of Ticket Collector under respondent No.2. The applicant retired on attaining the age of superannuation from the Railways on the afternoon of 30.6.97. Prior to his retirement, the applicant submitted his representation dated 1.3.95 (Annexure A10) to treat the entire period for the purpose of pensionary benefits . The period from 12.5.64 to 14.6.74 and 2.5.75 to 18.5.76 (while in M.P.Government service) and 2.5.75 to 18.5.76 (Railway Service) had not been added by the respondents 2 & 3 towards qualifying service for grant of pensionary benefits which totals to 11 years 1 month and 18 days. The applicant filed OA No.475/2000 for counting the period of service under respondent No.4, State Government, as qualifying service for pension. The Tribunal directed the applicant to file a fresh



representation to respondent No.2. He submitted the representation which was rejected and hence this OA was filed.


3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that initially the applicant had served the Madhya Pradesh State Government service and he had applied for the post of Ticket Collector in the Railways and he was appointed at his request. The Railway Department permitted him to join the Railways as Ticket Collector on the ground of illness of his son. Legally the applicant was entitled for counting the period of service under respondent No.4 as qualifying service for pension. The applicant had submitted a representation which was rejected arbitrarily and against rules.

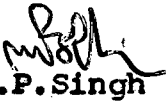
4. In reply, it is argued on behalf of the respondents that the applicant was re-appointed as per Divisional Commercial Supdt.(Estt.) Bombay Central's letter dated 23.4.76 with the condition that his appointment was fresh for all purposes and would not imply continuity of service with the previous employment or other benefits. The applicant was not given his seniority and was appointed on basic salary of the pay scale of Ticket Collector. No pay protection either of the post of LDC or of the post of Ticket Collector previously held by him was allowed to him. The applicant was appointed for second time in Railways with the specific instruction that his re-appointment in Railways would be fresh for all purposes and would not imply continuity of service for previous employment or other benefits or privileges. Hence the applicant cannot claim the reliefs and the action of the respondents was perfectly legal and justified.



5. After hearing the learned counsel for both the parties and carefully perusing the records, we find that the applicant was initially appointed as LDC ~~with~~ ⁱⁿ the Madhya Pradesh Government. He applied for the post of Ticket Collector in the Railways and he joined there. Subsequently, he requested the Railway Department to ~~to~~ permit him to join his parent department i.e. the Sales Tax Department of M.P. Government but the applicant was re-appointed in the Railway Department vide order dated 23.4.76 with the clear condition that his appointment would be fresh for all purposes and would not imply continuity of his previous service or any other benefit and no seniority was given to him and he was appointed on basic salary of the pay scale of Ticket Collector. No pay protection either in the post of LDC or in the post of Ticket Collector was allowed. Learned counsel of the applicant has cited some case law but none supports regarding the facts mentioned in re-appointment letter of the Railway Department dated 23.4.76 by which his reappointment was fresh for all purposes. The applicant joined the post accepting the condition laid down in that letter. The case law cited by the applicant's counsel relates to cases of normal condition. In the OA at hand, the facts are quite different.

6. Considering the facts and circumstances of the case, we are of the view that the applicant is not entitled for the reliefs claimed and the OA deserves to be dismissed. Hence the OA is dismissed. No costs.


Madan Mohan
Judicial Member


M.P. Singh
Vice Chairman