

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 605 of 1998

Jabalpur, this the 4th day of February, 2004

Hon'ble Mr. M.P.Singh, Vice Chairman
Hon'ble Mr. G.Shanthappa, Judicial Member

Shrimati Rakha Lal, Senior Clerk, Office
of Senior Divisional Personnel Office,
Central Railway, Jabalpur(M.P.)

APPLICANT

(By Advocate - Shri B.da.Silva)

VERSUS

1. Union of India,
through General Manager,
Central Railway, Mumbai CST.

2. Divisional Railway Manager,
Central Railway, Jabalpur (MP)

RESPONDENTS.

(By Advocate - Shri S.P. Sinha)

ORDER

By G.Shanthappa, Judicial Member -

The above application has been filed by the
applicant seeking following relief :-

- (i) Direct the respondents to grant the
applicant benefit of Railway Board's Policy
dated 5.1.1990 (Annexure-A-4).
- (2) Direct the respondents to grant seniority
to the Applicant with effect from 4.1.82
as per policy Annexure-A-4 and further
grant all the consequential benefits
thereof.

2. The brief facts of the case are that the
applicant was recruited through Railway Recruitment
Board vide employment notice No. 2/80-81 in the grade
of Rs.950-1500/- as Junior Clerk. Under the said
selection process the posting of the applicant was
deferred by the respondents. Subsequently in the year
1987, the posting was given to the applicant as Jr. Clerk
in which the applicant had opted for Jabalpur Division
but the respondents have ignored her option vide letter
dated 15.1.1991 and nominated the applicant for
Shivsagar Division and vide order dated 13.5.92. The

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applicant was allotted lien in operating (Non-Personnel) department as per Annexure-A-2. The lien of the applicant in open line was fixed under Railway Board policy dated 5.1.1990, in which the assignment of seniority of the staff appointed from the panel of employment notice No. 2/80-81 category No. 25, was stipulated in Paragraph 3.1, it has been stated in Para 3.1 "that the candidates recruited from category No. 25 of employment notice No. 2/80-81, will rank senior to those empanelled and appointed from those mentioned at Sr. No. 2, 3, and 4 below, irrespective of their date of appointment. They will however maintain their inter-se-seniority". Paragraph 2 of the said policy, also to that "candidates selected against employment notice No. 2/80-81, category No. 25, should have ranked senior to those appointed from the panels mentioned at item No. 1 to 3 similarly from the panel of employment notice No. 1/82 should have ranked senior to those candidates appointed from Class IV to Class III and tracer category. In terms of Ministry instructions, the candidates of panels of earlier employment notices will rank senior to those of the panel of subsequent Employment Notices irrespective of their date of appointment, maintaining their inter-se-seniority. In this connection it is mentioned that the panel of employment Notice No. 1/82 was finalised in 1985 i.e. after finalisation of panel of Tracer, which was notified vide notification No. RSC/85/R/C/S&T/20 of 20.2.85 i.e. the panel of earlier notification was finalised subsequent to that of Tracer Panel".

2.1. The applicants lien in Bhusewal Division was fixed, she was assigned the seniority as per the above said policy of the Railway Board though appointed on 26.6.87 and she was given preforma seniority w.e.f. from 4.1.1982 as per seniority list (Annexure-A-5). In the year 1993 the respondents have re-examined the allotment of lien of clerical staff appointed

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under Deputy Chief Engineer(C)AQ and vide letter dated 27.2.93 (Annexure-A-6) allotted the lien of the applicant to Jabalpur Division. The said lien has been provided for the purpose of seniority, promotion, confirmation and increment as well as further promotion to the higher grades.

2.2. The applicant submitted her representation asking ~~may be~~ the respondents, she/assigned the lien in Jabalpur Division, but the concerned authority did not decide her seniority and promotion. Though the applicant was allotted the lien in Bhusawal Division and in the seniority of Bhusawal Division, she has been assigned as Jr. Clerk w.e.f. 4.1.82. The Head-Quarter office has directed the Jabalpur office to decide the said representation. Since no decision has been taken by the respondents, in respect of assignment of the seniority and she is still treated in Jabalpur Division as an appointee of 26.8.87 and the effect of Railway Board Policy has not been considered, the respondents have ignored the norms in respect of lien and promotion, seniority, confirmation.

2.3. The learned counsel for the applicant contends that the applicant was initially recruited in the Railways at Engineering Department and her contemporaries are also absorbed in the Engineering Department, but the reasons best known to the respondents, the applicant is being posted in Personnel Department which is not just and proper. The respondents ought to have posted the applicant in the Engineering Department/ ^{as} it will benefit to the applicant in her service.

3. The respondents have filed their reply along with MAs Nos. 1344/03 and 1442/03 and also additional documents. The said documents are taken on record.

3.1. The main contention of the respondents is that, since the applicant did not worked in the Engineer Department,



she cannot ask for the lien in Engineering Department. Her comparison of seniority with the staff of Engineering Department is contrary to Rules. The seniority of the staff in different department is maintained separately.

3.2 The applicant was first allotted in Bhusawal Division and her lien was fixed in Bhusawal Division vide letter dated 13.5.92. The applicant submitted her representation against her allotment in Bhusawal Division and prayed by representation dated 28.5.92/for cancellation of her allotment to Bhusawal Division and allotment to Jabalpur Division as per her preference given in application form. The Head-quarter office considered her request, since the applicant had never worked in Bhusawal Division her request was considered and the allotment of Bhusawal Division was cancelled and she was allotted Jabalpur Division and her lien was fixed in Personnel Department. that The respondents have admitted/there is a policy decision of the Railway Board in respect of the assignment of were seniority. Representations/submitted by the staff appointed from the panel of employment notice No. 2/80-81, category No. 25. The recruitment of the applicant is also under the said employment notice category No. 25, For all purpose she belongs to personnel department of Jabalpur Division. The applicant is wrongly claiming seniority comparison with the staff allotted to Non-Personnel(Engineering) Department. The applicant was working in the Construction department which is temporary Deptt. The lien is always fixed in the open line i.e. regular Deptt. Non-Personnel(Engineering) Department are different and seniority of both departments are maintained separately. The allotment of Division and fixing of her lien in that division was cancelled on the representation of the applicant and Jabalpur Division was allotted as per vacancy lien was fixed.

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The applicant had accepted the said assignment hence she is estopped from challenging the fixing of lien.

3.3 The Board's letter dated 5.1.90 only grants seniority to the candidates of Employment Notice 2/80-81 category No. 25 over the candidates of employment notices of later date but does not state that date of appointment, would be changed. The date shown by Bhusawal Division as 4.1.82 is not acceptable and given under misconception. In Jabalpur Division, the applicant has been placed over all the candidates as per the Circular dated 5.1.90. Thus the claim of the applicant for granted of seniority from 4.1.82 is not tenable in the eye of law. Accordingly the OA is liable to be dismissed.

4. We have heard the learned counsel for the parties and carefully considered the facts and Railway Board letter dated 5.1.90.

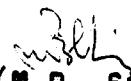
5. The admitted facts are that the applicant was recruited under employment notice No. 2/80-81 in the pay scale of Rs. 950-1500/- The Head-quarter office has issued policy regarding assignment of seniority vide letter dated 5.1.90. Representations were submitted by the staff appointed from the panel of employment notice No. 2/80-81, category No. 25. The applicant had also submitted her option for Jabalpur Division. However, the respondents have ignored her option and posted her to Bhusawal Division. According to the option submitted by the applicant, her services had to be absorbed in the office/^{of the} Deputy Chief Engineer(Construction). The respondents have rejected the said option and allotted her to Operating(Non-Personnel) Department Jabalpur. Hence, the applicant lost her seniority in construction division. The persons who were selected along with applicant, they got their seniority from the date of selection as per policy of the Railway under employment notice No. 2/80-81 category No. 25.

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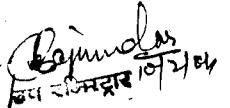
6. We also find that there was freezing of selection process due to irregularities in the selection process. Admittedly, there was an administrative lapse on the part of the respondents, while selecting the applicant, as well as rejecting option of the applicant. The applicant has lost her seniority and her seniority has to be fixed from 4.1.82. The action of the respondents is illegal while rejecting the option of the applicant. Initially option was given by the applicant while assigning the seniority, the respondents have not followed the policy decision of the Railway Board as per Annexure-A-4 dated 5.1.90. All the correspondence between the applicant and respondents and also internal correspondences of the respondents-department are in favour of the applicant. The respondents should have considered the representation of the applicant at Annexure-A-9 applying the policy decision of the Railway Board.

7. After verifying/contents of the policy decision and also the request of the applicant, we are of the considered view that the applicant has proved her case for grant of relief for seniority w.e.f. 4.1.82 as per the policy decision of the Railway Board dated 5.1.90. The respondent No. 1 and respondent No. 2 are hereby directed to consider the case of the applicant for seniority w.e.f. 4.1.82 with all consequential benefits in terms of Railway Board's order dated 5.1.90, within a period of 3 months from the date of receipt of copy of this order. With the above observations, the OA is allowed. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman


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FASSTED ON
10.2.04


B. dasluva, Adv.
SP Sinha, Adv.
B. J. Bajnudar
Adv. & Notary 10/2/04