

17

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

03.08.2011

OA No. 448/2008

Mr. C.B. Sharma, Counsel for applicant.

Mr. Anupam Agarwal, Counsel for respondents.

On the request of the learned counsel for the parties,
put up for hearing on 16.08.2011.

Anil Kumar

(ANIL KUMAR)
MEMBER (A)

K. S. Rathore

(Justice K.S. Rathore)
MEMBER (J)

AHQ

2000
88

16/8/2011

CASE NOT REACHED
PUT UP FOR HEARING
ON 9/9/2011

9/9/2011
COURT OFFICER

8

9.9.11

Mr. C.B. Sharma, Counsel for applicant
Mr. Anupam Agarwal, Counsel for respondents.

Heard. The OA is disposed of by a
separate order.

Anil Kumar

(Anil Kumar)
M (A)

K. S. Rathore
(Justice K.S. Rathore)
M (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 9th day of September, 2011

Original Application No.448/2008

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Gokul Singh Meena
s/o Shri Sardar Mal Meena,
r/o village and post Nayabas,
Neem Ka Thana, District Sikar,
and presently working as
Office Superintendent Grade-II,
Office of Senior Material Manager, (BGC)
Carriage Store, North Western Railway,
Ajmer Division, Ajmer

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India
through General Manager,
North Western Zone,
North Western Railway,
Jaipur
2. Chief Material Manager,
North Western Railway,
Ajmer Division,
Ajmer.
3. Dy. Chief Material Manager,
North Western Railway,
Ajmer Division,
Ajmer.

4. Senior Material Manager (BGC),
Carriage Store,
North Western Railway,
Ajmer Division,
Ajmer.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORDER (ORAL)

Brief facts of the case are that the respondents vide Ann.A/3 calculated 44 vacancies to the cadre of Office Superintendent Grade-II (OS-II) scale Rs. 5500-9000 and placed 41 officials on panel, showing 3 officials of SC category not available and placed ST officials including the applicant in the panel. Against 44 posts, 4 posts of ST category are calculated as per the post based model roster and instead of 4 only 3 officials were allowed promotion and thereafter the applicant was allowed promotion to the cadre by the same order at Sl.No.31.

2. The applicant aggrieved and dissatisfied with the order dated 23.10.2008 preferred this OA as vide this impugned order the applicant was reverted back to the post of Head Clerk for want of post. This impugned order has been challenged by the applicant on the ground that while promoting the applicant, the respondents have rightly



calculated representation of officials of ST category and benefit of promotion was allowed by the respondents w.e.f. 1.11.2000 by placing the applicant in the select list and thereafter promoting to the cadre of OS-II scale Rs. 5500-9000 taking into consideration the vacancy position calculated by respondent No.3 at the relevant time and after a lapse of more than 4 years reversion of the applicant cannot be ordered.

3. The learned counsel appearing for the respondents has stated that the Railway Board vide its letter dated 9.10.2003 issued orders of restructuring to be effective from 1.11.2003. Accordingly, vide office order dated 12.5.2004 (Ann.A/3) by restructuring the cadre of COS, OS-I, OS-II and Head Clerk promotion orders were issued. Further, the cadre strength after restructuring was – COS 8, OS-I 16, OS-II 32 and Head Clerk 59. In view of above position, the cadre strength of OS-II was 32. As per post based roster, point Nos. 8 and 20 are reserved for ST community. Since only 2 points are reserved for ST community, therefore, the assessment of 3 points for ST was wrong and as soon as this error came to the knowledge of the administration, appropriate action was initiated by issuing necessary orders in this regard. In fact, the earlier assessment of 44 vacancies was based upon counting of downgraded posts of higher grade linked vacancies. Wherein there was no



shortfall of ST category, Thus, the earlier assessment was erroneous and not as per rules. Further stated that it is wrong to say that 3 posts of ST are justified in a cadre of 32. Therefore, the competent authority has no option except to revert the last selected ST candidate. The applicant since already promoted and working cannot be reverted without compliance of the principles of natural justice. Thus, show cause notice was issued to the applicant and after giving opportunity of being heard, the applicant was reverted back to the post of Head Clerk for want of vacancy. Thus, no illegality has been committed by the respondents while passing the impugned order dated 23.10.2008 (Ann.A/1).

4. The learned counsel for the applicant further referred to the judgment of the Jodhpur Bench in the case of Rajendra Kumar Gaur & Another vs. Union of India & Others, passed in OA No.286/1998 on 11.5.2002 wherein the order dated 21.8.1997 issued by the Railway Board has been quashed and set aside by the CAT-Jodhpur Bench and submitted that in the light of the judgment rendered by the Jodhpur Bench and followed by this Tribunal in OA No.338/2009 dated 10th August, 2010, the matter requires to be considered.

5. Having considered the rival submissions of the respective parties and upon careful perusal of the material available on record, since the controversy involved in this OA is that earlier



vacancies were taken as 44 and as per the roster point the vacancies of ST cadre were determined as 3 and the applicant was promoted, whereas, in fact, there were only 32 posts available and as per post based roster system, only 2 points were available for ST candidate and immediately after noticing the wrong committed by the respondents, the same has been corrected and the respondents have no other option except to revert the applicant as he was selected against one of the posts. The ratio decided by the Jodhpur Bench in the case of Rajendra Kumar Gaur (supra) and followed by this Bench in OA No.338/2008 are not applicable to the present case.

6. Consequently, we find no illegality in the impugned order dated 23.10.2008 passed by the respondents and no interference is required in this OA. Resultantly, the OA fails and, therefore, dismissed with no order as to costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

J. S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/