

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00751/2018

DATED THIS THE 26th DAY OF APRIL, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

R.Mannu
S/o.Sri.S.Raman
Aged about 57 years
Technician Grade II/SW Railway
Bangalore-560023.

....Applicant

(By Advocate Sri K.Shivakumar)

Vs.

1. Union of India
Rep. by General Manager
South Western Railway, Hubli.
2. Senior Divisional Personnel Officer
S.W. Railway
Bangalore.

...Respondents

(By Advocate Sri N.Amaresh)

ORDER

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The case of the applicant is that he was initially appointed as Khalasi in Signal & Telecommunication Department on 20.7.1981 and was selected as Junior Telephone Operator in 1996 and was promoted as Senior Telephone Operator in 2003. While working as such, the posts of Telephone Operator which are headquarters controlled posts were rendered as surplus in 2012 and it was decided to re-deploy them in any of the departments where the vacancies exist. As per the

Railway Board's order dtd.28.11.2000, the process of re-deployment of surplus staff working against intermediate grade posts should be finalized preferably within 6 months from the date an incumbent is declared as surplus. In his case, the said instruction was not followed and the respondents took about 5 years to re-deploy him in a post against his interest. As per the said order of the Railway Board, the surplus staff willing to go on bottom seniority against recruitment grades in other departments should be first absorbed against direct recruitment vacancies. Though the applicant was willing to go in the recruitment grade in the ticket checking cadre against the vacancies available and requested for the same orally and also through the recognized trade union, the same was not considered by the respondents whereas the applicant's juniors in Hubli and Mysore divisions were re-deployed/absorbed in the ticket checking cadre/ministerial cadre not in the recruitment grade but in the intermediate grade duly protecting their present grade pay considering their request. The applicant was re-deployed as Technician Grade II in GP 2400 only on 12.4.2017 under office order dtd. 12.4.2017(Annexure-A1). Though he entered to the post of Telephone Operator cadre in GP Rs.2400 on 1.11.2003, on re-deployment he has been considered as a fresh entrant and his date of entry into the post of Technician in GP Rs.2400 has been taken as 12.4.2017 and he has been kept below all the employees available in the cadre in the seniority list dtd.23.1.2018(Annexure-A2) which has resulted in the denial of further elevation in the cadre for no fault of him. The decision of re-deployment was made due to administrative reasons and not at the request of the employees concerned, the applicant's interest could be safeguarded only by protecting his seniority. Besides oral representation, he submitted a written representation on 7.11.2017(Annexure-A3). Though seven months passed, no action has been taken

by the respondents on the said representation. Aggrieved by the same, the applicant has filed the present OA seeking the following relief:

- i) Order the respondents to protect the seniority of the applicant in the cadre of technician by taking his date of entry in to the cadre as 01.11.2003 and to grant the consequential promotions in the cadre or;*
- ii) Order the respondents to consider the request of the applicant and accommodate him in the ticker checking cade in GP Rs.2400 as has been done in Hubli and Mysore Divisions of the very same Railways.*

2. On the other hand, the respondents in their reply statement have submitted that consequent to the introduction of Electronic Exchange, trunk booking facility activity in Telephone Exchange of Bengaluru Division had drastically decreased. Hence, the work study team conducted in 2011 had recommended for surrender of 7 sanctioned posts of Telephone Operators and deployment of incumbents. Accordingly, as per the meeting by the administration at Bengaluru Division with the representatives of organized labour union, a decision was taken to redeploy the incumbents who were rendered surplus in the cadre of Ticket Examiners subject to approval of Headquarters office. The decision taken in the Joint Meeting was reviewed in view of the decision taken by Divisional Railway Manager/Bengaluru for redeploying in Signal and Telecommunication Department (Signal Side) and accordingly 2nd respondent sent a proposal to headquarters office for order on redeployment as the posts of Telephone Operators were under the control of Headquarters office at Hubballi. After receiving the communication regarding redeployment from headquarters office on 21.3.2017(Annexure-R1), the applicant was posted as Technician Gr.II/Tele in Bengaluru Division. The matter of redeployment of surplus Telephone Operators was under protracted correspondence with various departments at division and headquarters office and after receipt of approval from headquarters office, the 2nd respondent issued office

order as per Annexure-A1. The applicant before his redeployment was working as Sr.Telephone Operator in GP Rs.2400. He was posted as Technician/Gr.II in S&T department duly protecting his pay & Grade Pay and there is no monetary loss caused to him. The assignment of seniortiy is as per para 313 of IREM circulated vide Railway Board dtd.25.5.2004(Annexure-R2) as per which the surplus employees are not entitled for benefit of the past service rendered in the previous unit/department for the purpose of their seniority in the new unit/department. Such employees are to be treated as fresh entrants in the matter of their seniority, promotions etc.

3. The respondents submit that they have taken necessary action for redeployment of surplus Telephone Operators. Due to administrative reasons and correspondence at various levels the redeployment of staff took considerable time which is beyond the control of administration. The applicant was not put to hardship and he was drawing monthly emoluments. The respondents have taken a decision to post the applicant and similarly placed employees to the available vacant posts in the same department according to their medical classification. The applicant cannot insist for posting him as Ticket Examiner based on the redeployment of Hubli and Mysore Divisions. The respondents have posted him in the department in which he was earlier working considering his educational qualification of SSLC & technical qualification of ITI. The subject matter of redeployment of Telephone Operators of the applicant and others has been represented by SW Railways Mazdoor Union in the PNM meeting to be hald at Headquarters level and the matter is pending for a decision. The applicant without waiting for the decision of the PNM meeting had approached the Tribunal and hence the OA is liable to be dismissed.

4. We have heard the Learned Counsel for both the parties and perused the materials placed on record. The case of the applicant is that on re-deployment, even though his pay and grade have been protected, his seniority on the technical side has been affected because of the delay of almost 5 years in finalising his redeployment based on his post being rendered as surplus in the year 2012. The respondents have rightly claimed that as per IREM 313, the surplus employees are not entitled for the benefit of past service rendered for the purpose of seniority in the new unit/department and that such employees are to be treated as fresh entrants in the matter of their seniority, promotions etc. The applicant has also not claimed that any person junior to him has been given a more favourable treatment and has not alleged any malafide on the part of the respondents. His only grouse is that had the respondents taken prompt action for redeployment of surplus employees like him even as Technician Grade-II, he would have got a higher seniority enabling him to secure further promotions. This is apparently so. But the respondents have their own reasons citing protracted correspondence and discussions regarding redeployment. His other request is relating to considering him for appointment as Ticket Checking Staff as has been done in other divisions like Hubli and Mysore. While we agree with the respondents that it is within their domain to appoint persons with technical qualifications for technical posts as they deem fit, since they have already considered similarly placed technically qualified employees to be used as part of Ticket Checking Staff and they have also admitted that the matter is being discussed based on the representation made by the employees union in the PNM meeting to be held at Headquarters level and that the matter is pending for a decision vide para-6 of their reply, the limited order we would like to give is for the respondents to consider the case of the applicant on similar lines as was done in

Hubli, Mysore etc., Divisions subject to their final decision on the desirability of the same taking note of the fact that they already have a large number of technical persons and the posting of the applicant as part of the Ticket Checking Staff would not make such a great difference to the functioning of the respondents. This they shall do so within a period of three(3) months from the date of this order.

5. The OA is disposed of accordingly with no order as to costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred to by the applicants in OA.No.170/00751/2018

Annexure-A1: Copy of O.O.No.439/04/2017/S&T/T.Operators dtd.12.04.2017

Annexure-A2: Copy of seniority list dtd.23.01.2018

Annexure-A3: Copy of representation dtd.7.11.2017

Annexures with reply statement:

Annexure-R1: Letter dtd.21.3.2017

Annexure-R2: Para 313 of Railway Board's letter dtd.25.5.2004
