

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2017

Coram

The Hon'ble Mr.Justice K.K.Sasidharan
&
The Hon'ble Mr.Justice M.V.Muralidaran

Writ Petition No.27289 of 2016

P.Kumar

... Petitioner

Vs.

1. The Union of India, rep. by
The General Manager,
Southern Railway,
Park Town, Chennai - 600 003.
 2. The Senior Divisional Commercial Manager,
Chennai Division, Southern Railway,
NGO Annexe, Park Town, Chennai - 600 003.
 3. The Senior Divisional Personnel Officer,
Chennai Division, Southern Railway,
NGO Annexe, Park Town, Chennai - 600 003.
 4. The Registrar,
Central Administrative Tribunal
Madras Bench, Chennai - 600 104.
- ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records and to quash the order passed by the fourth respondent, in Original Application No.791 of 2015, dated 08.04.2016, consequently, to direct the respondents to extend the promotional benefits to the petitioner, in the post of Senior Ticket Examiner on par with his juniors as per the rules in vogue with consequent promotion to the higher grade of Deputy Chief Ticket Inspector.

For Petitioner : Mr.R.Pandian

For Respondents 1 to 3 : Mr.V.G.Suresh Kumar
Standing Counsel

For Respondent- 4 : Tribunal

O R D E R

(Order of the Court was delivered by K.K.Sasidharan, J.,)

This Writ Petition is directed against the order, dated 08.04.2016, on the file of the Central Administrative Tribunal (henceforth, referred to as 'Tribunal') in O.A.No.310 of 2015, dismissing the Original Application filed by the petitioner, challenging the orders, dated 14.07.2011 and 21.01.2015.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Standing Counsel for the Southern Railway.

3. The petitioner was appointed as Station Porter, on 07.08.1986. Thereafter, he was promoted to the post of Pointsman 'B'. Later, he was selected as Ticket Collector. He was subsequently promoted as Senior Ticket Examiner. However, the petitioner failed to accept the order, dated 15 July, 2011 granting him promotion with a rider that, in case of refusal, he would be precluded from claiming further promotion. Thereafter, the juniors of the petitioner, whose names were found in the order, dated 15.07.2011 were promoted. The petitioner was also given promotion ultimately. During the verge of his retirement, the petitioner claimed seniority on the ground that his juniors were placed above him. Both the Railways as well as the Tribunal negatived the said claim. Feeling aggrieved, the petitioner is before this Court.

4. There is no dispute that the petitioner was given promotion as Senior Ticket Examiner, by order, dated 15.07.2011. The petitioner, for reason, best known to him, failed to accept the said order, and he continued to function as Ticket Collector.

5. It is a matter of record that that the juniors of the petitioner accepted the promotion. Subsequently, those who were promoted as Senior Ticket Examiners, were once again promoted as Deputy Chief Ticket Inspectors. The petitioner made a claim that, he ought to have been promoted as Deputy Chief Ticket Inspector on the date on which his juniors were promoted. There is absolutely no merit in the claim made by the petitioner, for more than one reasons. The petitioner ought to have accepted the promotion, which was given to him, by order, dated 15.07.2011. The petitioner wanted to be retained as Ticket Collector at the place, where, he was working as on the date on which the order, dated 15.07.2011, was issued by the Southern Railway. The Southern Railway, taking into account the service of the petitioner, ultimately, promoted him to the post of Deputy Chief Ticket Inspector. There is no question of

placing the petitioner above his juniors on account of the fact that he refused to accept the order, dated 15.07.2011, promoting him to the post of Senior Ticket Examiner. In fact, there was a condition, clearly indicating that, in case of refusal to accept, it would forfeit the right for promotion for a period of one year.

6. The issue raised by the petitioner was analyzed by the Tribunal, and the Original Application was rightly dismissed. We do not find any reason to take a different view in the matter.

7. In the upshot, we dismiss the Writ Petition. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Mr.V.G.Suresh Kumar, Advocate SR.No.17207

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PA(CO)
GN(21/04/2017)