

Court No. - 39

Case :- WRIT - A No. - 50107 of 2005

Petitioner :- Suresh Chandra Sharma

Respondent :- Union Of India Thru G.M. Northern Railway
And Others

Counsel for Petitioner :- Ravi Shankar Prasad,Lal
Babu,Somnath Bhattacharya

Counsel for Respondent :- Govind Saran,Anand Kumar
Roy,Arvind Singh,S.C.,V.K. Goel

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Somnath Bhattacharya learned counsel for the petitioner and Sri Arvind Singh learned counsel for the Union respondents.

2. Present writ petition has been filed to assail the order dated 10.3.2005 passed by the Central Administrative Tribunal, Allahabad Bench Allahabad in Original Application No.87 of 2001 (Suresh Chandra Sharma Vs. Union of India and Others). By that order, the Tribunal has dismissed the Original Application filed by the petitioner to assail the order dated 02.11.1999 reverting the petitioner to the post of Gate Man from *ad hoc* promotional post held by him of Assistant Guard

3. Having heard learned counsel for parties and having perused the record, we find no good ground to offer interference in exercise of writ jurisdiction. Undisputedly, the petitioner was appointed as Gate Man in 1979 on substantive basis. He gained eligibility to the promotion to the post of Assistant Guard, a post that then existed, in the year 1986. Considering the number of substantive vacancies available and the work requirement existing, on 03.7.1986 petitioner was granted *ad hoc* promotion on the post of Assistant Guard. At that stage, there existed no

violation of seniority. After working as Assistant Guard on *ad hoc* basis for three years, petitioner claimed eligibility to regular promotion on that post. Nevertheless, it is a fact, petitioner continued to work in *ad hoc* capacity as Assistant Guard till 1999. By communications dated 14.11.1995, 08.1.1998 and 29.4.1999, the post of Assistant Guard came to be abolished. Yet, the petitioner continued to work on that post till 2001. At that stage, he was reverted to the post of Gate Man on which he continued to work till his retirement on 31.7.2015.

4. Earlier, the petitioner had set up a claim to regularisation on the post of Assistant Guard. That claim was based on the selections conducted in the year 1987. The matter reached the Tribunal in Original Application No. 469 of 1989 (Suresh Chandra Sharma Vs. Union of India and Another). That proceeding was allowed by means of the order dated 20.5.1994. Operative portion of the order reads as below:-

"The application, therefore, party allowed and the prayer for regularization is disallowed but he shall not be reverted from ad hoc post of Assistance Guard so long as a vacancy of that nature is available. The respondents shall consider the applicant in the subsequent vacancies along with others who participated and a selected in the subsequent selection and can be regularized only on the basis of seniority if he comes within the range of notified vacancies for which the subsequent selection is directed to be held. He will get seniority from the date of regularization only."

5. It is a fact that the post of Assistant Guard came to be abolished before the petitioner's claim for regularisation on that post matured. It is also a fact that after his reversion on the post of Gate Man, petitioner continued to work for almost 14 years before the retirement date of the petitioner.

6. In such fact, we find no ground existing to consider the petitioner to have retired on the post of Assistant Guard. Unless that order of abolition of post had been set aside, the claim of

the petitioner may have no legs to stand. Abolition of posts remained an administrative decision. Insofar as there is nothing on record to reach a conclusion that the same was patently contrary to any law or plainly arbitrary, we are not impressed to offer interference, as prayed.

7. The decision of the Supreme Court in **Narender Chadha and Others Vs. Union of India and Others, (1986) 2 SCC 157** is wholly distinguishable on facts. In that case, the principle applied was to grant benefits where the employee had continued to work on higher post over a long period of time without reversion. Here, as noted above, petitioner was reverted to his substantive post within 13 years. In any case, he rendered service on the reverted post for the next 15 years.

8. Thus, we find no injustice having been met out to the petitioner. Writ petition lacks merit and is accordingly **dismissed**.

Order Date :- 3.10.2023

Faraz

(Anish Kumar Gupta, J.) (S. D. Singh, J.)