

Sunder Lal and Others

Vs

Union of India and Others

Civil Appeal No. 2960 of 1989

(Smt. Sujata V. Manohar, S. R. Babu JJ)

03.09.1998

JUDGMENT

SMT. SUJATA V. MANOHAR, J.

1. The appellants were initially appointed in the service of the North-Eastern Railway as Carpenters. However, on their passing trade test for Carpenter and Wireman they were appointed as Wiremen-cum-Carpenters with effect from 16-12-1968. As the category of Carpenter-cum-Wireman was a non-standard category, the North-Eastern Railway authority decided to abolish this category in 1978. Options were invited from the original appellants who were six in number to opt either for the Carpenter's category or Wireman's category. In 1979 the appellants exercised their option for the category of Wireman. Thereafter they were posted as Wiremen. However, on account of problems which arose relating to the seniority of the appellants qua the existing Wiremen, the General Manager of North-Eastern Railway by issuing order dated 24-9-1984, decided to put the appellants in the category of Carpenter which was the category in which they were initially appointed. Their names were removed from the seniority list of Wiremen.

2. The appellants had, in the meanwhile, in 1984 filed a suit for a declaration that they were eligible to appear for the test for promotion to the highly skilled Wiremen Grade II posts. Since they were absorbed as Wiremen, the suit was decreed. The appeal which was transferred to the Central Administrative Tribunal has been allowed and the suit has been dismissed. The Tribunal has rightly come to the conclusion that under para 2011 of the Indian Railway Establishment Code Volume II, a competent authority may transfer a railway servant from one post to another provided that, except on account of inefficiency or misbehaviour or on his written request, he shall not be transferred to a post carrying less pay than the pay of the post over which he holds a lien.

3. In the present case, the posts of Carpenter and Wireman are equivalent posts carrying the same pay and the same terms and conditions of service. The post of Carpenter is also a post to which the appellants were originally appointed. Now, on account of administrative reasons, the appellants have been posted as Carpenters instead of Wiremen when the category of Carpenter-cum-Wireman was proposed to be abolished. We are also informed that out of the six appellants, two have died and the other four have been working as Carpenters after the Tribunal's order of 10-2-1987. Looking to all the circumstances of the present case, this is not a fit case for setting aside the decision of the General Manager of 24-9-1984 when the appellants continued to get the same pay in the same pay scale and the terms and conditions of service were not affected in any manner.

4. The appeal is, therefore, dismissed. There will, however, be no orders as to costs.