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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1697/2002

New Delhi this the 3rd day of July, 2002.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Shri Jaswant Rai
R/o House No.10/4,
Railway Colony
Kishanganj
Delhi.

..... Applicant

(By Shri S.K.Sawhney, Advocate)

-versus-

1. Union of India through
General Manager
Northern Railway, Baroda House
New Delhi.

2. Divisional Railway Manager
Northern Railway
D.R.M. Office
Chelmsford Road
New Delhi.

3. Senior Divisional Singnal
and Telecom Engineer
Northern Railway
D.R.M.Office, Chelmsford Road
New Delhi.

... Respondents

O R D E R (ORAL)

S.A.T.Rizvi:-

Northern Railways have by their letter of 22.1.1999 issued instructions on the subject of restructuring of Ministerial cadre in pursuance of the recommendations made by the Fifth Central Pay Commission (Annexure A5). By the said letter, ^{the} ~~the~~ post of Chief Office Superintendent in the pay

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scale of Rs.7450-11500/- has been created by upgrading one post of Office Superintendent Grade I. Promotions were accordingly required to be made to fill the aforesaid newly created post of Chief Office Superintendent. Promotions were to be made by a procedure modified by Railway Board's letter of 17.2.1999 (Annexure A6). In the seniority list issued by the Railways for the post of Superintendent, the applicant stood at No.2, the number 1 position being occupied by one Shri Daya Shanker (SC). Aforesaid Shri Daya Shanker was working in the Construction Organisation at the material time and, therefore, could not have been promoted to the post of Chief Office Superintendent. Despite this position, the aforesaid Shri Daya Shanker was promoted and posted on open line. He did not join ^{the} open line post and continued to stay in the Construction Organisation. He was retained in the Construction Organisation by the authorities by choice and was allowed to retire from the post of Chief Office Superintendent under ~~letter No.~~ Dy.CSTE/C/RRJ/ND/11. He retired on 31.8.2001. Since the aforesaid Shri Daya Shanker was retained in the Construction Organisation, in order to fill the vacancy ~~for~~ ⁱⁿ the post of Chief Office Superintendent on the open line, the applicant was finally promoted and posted as Chief Office Superintendent/S&T Branch vide Northern Railway letter dated 20.6.2000 (Annexure A14).

Meanwhile, in the absence of the aforesaid Shri Daya Shanker, applicant had been officiating in the post of Chief Office Superintendent. Applicant's officiation as Chief Office Superintendent was sanctioned vide respondents' letter of 3.11.1999 (Annexure A11).


2. Based on the aforesaid position, the applicant has, inter alia, prayed as under:-

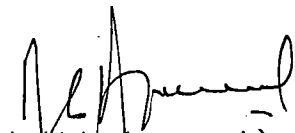
- " (i) Direct the Respondents to grant the Applicant the benefit of upgradation for the post of Chief Office Supdt. scale of Rs.7450-11500 from 19.5.1998 alongwith all consequential benefits with interest.
- (ii) Direct the Respondents to grant the Applicant arrears of pay for having worked on the post of Chief Office Supdt. scale of Rs.7450-11500 vide order dated 03-11-1999 Annexure A11 "

The learned counsel appearing on behalf of the applicant submits that the aforesaid would imply that the applicant seeks notional promotion as Chief Office Supdt. with effect from 10.5.1998 on the strength of Railway Board's circular of the same date (Annexure A4) and full benefit of the higher post with effect from 3.11.1999 which is the date from which he started officiating as Chief Office Supdt. Since the aforesaid benefit has not been extended to him, the applicant filed a representation on 10.1.2001 (Annexure A2) to which there has been no response so far.

3. In the circumstances, we find that the interests of justice will be duly met by disposing of the present OA at this very stage even without issuing notices with a direction to the respondents to consider the aforesaid representation in the light of the aforesaid observations made by us and the other pleas advanced on behalf of the applicant in the body of the present OA and pass a reasonable and a speaking order thereon expeditiously and in any ~~event~~ event within a period of two months from the date of receipt of a copy of this order. We direct accordingly.

4. Present OA is disposed of in the aforestated terms.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

/sns/