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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1795/2002

New Delhi this the 28th day of July, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)
HON'BLE MR. R.K. UPADHYAYA, MEMBER (ADMNV)

Narender Kumar Jain,
S/o Sh. P.S. Jain,
R/o C-55, Ex-Dilshad Garden,
Shahdara, Delhi-110091. -Applicant

(By Advocate Shri S.K. Sawhney)

-Versus-

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway, DRM Office,
Chelmsford Road,
New Delhi.
3. Divisional Personnel Officer,
Northern Railway,
DRM Office, Chelmsford Road,
New Delhi. -Respondents

(By Advocate Shri V.S.R. Krishna)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Applicant has sought promotion to the post of Deputy Station Superintendent/Station Superintendent w.e.f. 19.8.1997 with arrears of salary till the age of retirement, i.e., 31.3.98 along with revision in retiral benefits.

2. While working as Station Master applicant appeared in the selection for the post of Deputy Station Superintendent (DSS) and was promoted on selection by a letter dated 19.8.97. Due to pendency of a disciplinary proceeding his case was placed under sealed cover. On conclusion of the proceedings by a letter dated 12.12.97 he

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was placed in the panel above Sh. Ghan Shyam. Applicant made representation to accord him promotion but the same was not agreed to. In the meantime, applicant retired on superannuation on 31.3.98.

3. Learned counsel appearing for applicant Sh. S.K. Sawhney contends that a minor penalty of censure as per RBE 13/93, Railway Board's instructions issued on 21.1.93 per clause 3.9 to a promotion on selection post in case of imposition of penalty for censure promotion is to be accorded when due. In this backdrop it is stated that as applicant was empanelled, he cannot be denied his promotion when it was due from the date his junior has been promoted.

4. On the other hand, respondents' counsel Sh. V.S.R. Krishna though contested the OA, has not disputed RBE 13/93.

5. In so far as a subsequent proceeding pending against applicant the same is subsequent to the date of promotion of applicant's junior on 19.8.97 the same would not affect the promotion and in view of the decision of the Apex Court in Delhi Jal Board v. Mohinder Singh, 2000 (7) SCC 201.

6. We have carefully considered the rival contentions of the parties and perused the material on record. Admittedly, on 19.8.97 junior of applicant was promoted as DSS, whereas a major penalty chargesheet, which culminated into a minor penalty of censure would have no

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effect over the promotion of applicant as per clause 3.9 of RBE-13/93 and promotion is to be accorded when due.

7. In this view of the matter claim of applicant is justifiable and permissible in law. Accordingly, OA is allowed. Respondents are directed to accord promotion to applicant w.e.f. 19.8.97 as DSS. He would be entitled to all consequential benefits till his retirement on 31.3.98. Respondents shall also accordingly revise the terminal benefits of applicant, including pension with grant of arrears. These directions shall be complied with, within a period of three months from the date of receipt of a copy of this order. No costs.

R.K.Upadhyaya

(R.K.Upadhyaya)
Member (A)

S.Raju

(Shanker Raju)
Member (J)

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