

(13)

Central Administrative Tribunal, Principal Bench  
New Delhi

O.A. No.2162 of 2001

New Delhi this the 15th day of November, 2002

Hon'ble Mr.Kuldeep Singh, Member (J)  
Hon'ble Mr. M. P. Singh, Member (A)

R.K. Rawat,  
S/o Shri Raj Kumar Rawat,  
Divisional Operating Manager,  
Railway Electrification, Northern Railway,  
Moradabad. - Applicant  
(By Advocate : Shri G.D. Bhandari)

Versus

Union of India through  
1. The Secretary,  
Railway Board,  
Rail Bhawan, New Delhi.  
2. The General Manager,  
Northern Railway,  
Baroda House, New Delhi.  
3. The Divisional Railway Manager,  
Northern Railway,  
Moradabad.  
4. Secretary, U.P.S.C.,  
Shahjahan Road, New Delhi. - Respondents  
(By Advocate : Shri R.L. Dhawan)

O R D E R

Mr. M.P. Singh, Member (A)

In this OA, the applicant is challenging the letter dated 12.6.2001 issued by Railway Board whereby the claim of the applicant for seniority over certain junior persons on induction in the Indian Railway Traffic Service (IRTS) has been rejected.

2. Brief facts of the case are that the applicant was appointed as an Assistant Station Master in the grade of Rs.330-560 (RS) on 1.12.1962. Thereafter he was promoted as Section Controller in the grade of Rs.470-570 (RS) vide selection list dated 1.1.1976. The cadre of Section Controller is a divisional controlled post and the seniority is maintained division-wise. The applicant



was transferred from the divisional seniority unit to the Headquarters office seniority unit. He ceased to hold the lien in Moradabad Division and acquired the lien in Headquarter Office. In December, 1981, he was transferred on deputation to the ex-cadre post of a Transportation Instructor to the Zonal Training Centre, Chandausi. Though the applicant has already been working as Deputy Chief Controller in the Headquarter Office, his seniority in that grade was erroneously shown by Moradabad Division. Aggrieved by this, he had filed OA No.616/1988 and the Tribunal vide its judgement dated 5.3.1993 in OA No.616/1988 held that the applicant's seniority as Deputy Chief Controller be counted w.e.f. 15.11.1977". Consequent upon the aforesaid directions in OA No.616/1988, the applicant was assigned proper seniority in Group 'B' and his name was interpolated in the panel of 1988-89 and his name was placed below Shri Ghan Shyam Singh (Sl. No.14) and above Shri Harbhajan Ram (Sl. No.15). Thereafter the respondents sent the applicant's case for promotion to Junior Time Scale (Group 'A') of IRTS to the UPSC in the year 1997 and his name was cleared by UPSC on 15.7.1999. The applicant had submitted a representation to the respondents that the name of his junior Shri Harbhajan Ram was cleared for JTS (Group 'A') of IRTS on 13.12.1993 and deeming that the junior has been so cleared on 13.12.1993, he should also have been assigned seniority with effect from the same date i.e. 13.12.1993. Later on, another junior, namely, Shri D.P. Singh (Sl. No.28) was also promoted and granted JTS (Group 'A') of IRTS w.e.f. 28.7.1997. Aggrieved by this, he has filed this OA seeking

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directions to quash and set aside the impugned orders dated 12.6.2001 (Annexure A) and dated 11.6.2001. He has also sought direction to quash and set aside order dated 12.8.1999 (Annexure A-1) along with letter dated 28.9.2000 (Annexure A-13) so far as the same relates to the appointment of the applicant to the JTS (Group 'A' of IRTS w.e.f. 15.7.1999 with a further direction that the applicant be deemed to have been promoted to junior time scale at least from the date his junior, namely, Shri D.P. Singh, was promoted with all consequential benefits.

3. Respondents in their counter reply have submitted that while implementing the judgement dated 5.3.1993 of the Tribunal in OA No.616/1988, the seniority of the applicant in Group 'B' was upgraded. The juniors to the applicant in the revised Group 'B' seniority had earlier been considered for promotion to JTS (Group 'A') of IRTS against the vacancies of promotion quota for the years 1991 to 1995. Therefore, a meeting of Review DPC was held by UPSC on 25th to 27 May, 1999 and re-convened on 7th July, 1999 to consider the case of the applicant. However, the Review DPC did not recommend the name of the applicant for promotion against the vacancies pertaining to the years 1991 to 1995 due to comparatively lower gradation assigned to him by the Review DPC on assessment of his Annual Confidential Report (ACRs) for the relevant periods. Along with the Review DPC, a regular DPC was also held for promotion quota vacancies corresponding to the Examination Year 1996. In the regular DPC, there was one reserved vacancy and one unreserved vacancy for the

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Northern Railway. The applicant was selected against the un-reserved vacancy. Accordingly, he has been substantively appointed to JTS (Group 'A') of IRTS w.e.f.15.7.1999 vide notification dated 12.8.1999. In view of the above submissions, the applicant is not entitled to any relief and the OA is liable to be dismissed.

4. Heard both learned counsel for rival contesting parties and perused the material placed on record.

5. During the course of the arguments, learned counsel for the applicant has submitted that the name of the applicant was proposed to the UPSC for promotion to JTS (Group 'A') of IRTS only in the year 1997 and clearance was received on 15.7.1999. However, the name of Shri Harbhajan Ram (junior to the applicant) was cleared on 13.12.1993. On that basis, the applicant should be deemed to have been appointed to JTS (Group 'A') of IRTS with effect from the same date i.e. 13.12.1993. He has also submitted that the Review DPC held in May/July 1999 did not take into account, nor was it apprised of the background of interpolation of applicant's seniority in Group 'C' and then in Group 'B' and it is for this reason that he was assigned lower grading by the Review DPC. He has further submitted that as per the law laid down by the Allahabad and Jabalpur Benches of the CAT, if a person is assessed as 'Good' against the benchmark of 'Very Good', the 'Good' grading has to be treated as an adverse remark and has to be



communicated to the concerned officer, who has a right to represent against the same.

6. On the other hand, learned counsel for respondents has submitted that in pursuance of the order dated 5.3.1993 of the Tribunal in OA No.616/1988, the seniority of the applicant in Group 'B' was upgraded and as a result of which his name was interpolated in the panel of Group 'B' officers formed in the year 1988-89. As the juniors of the applicant in revised Group 'B' seniority list were earlier considered for promotion to Group 'A' service against the promotion quota vacancies pertaining to the years 1991 to 1995, a Review DPC was held by the UPSC on 7.7.1999 to consider the case of the applicant. However, the Review DPC did not recommend the case of the applicant due to comparative lower grading assigned to him by the Review DPC after assessing the ACRs for the relevant period. It is for this reason that the applicant has not been promoted to Group 'A' service with effect from the date his junior, namely, Shri Harbhajan Ram was inducted to Group 'A' service ~~w.e.f. 1.e.~~ 13.12.1993.

7. We have carefully considered the rival contentions of the parties and perused the original record of Review DPC which was held by the UPSC to consider the case of the applicant for promotion to JTS (Group 'A') of IRTS. As per the DPC guide-lines for promotion to JTS (Group 'A') of IRTS, the DPC is required to accord grading to the officers, whose names are under consideration for promotion, as 'Outstanding', 'Very



Good', 'Good', 'Average' and 'Unfit' on the basis of their ACRs while the benchmark for promotion would be 'Good'. However, the officers graded as 'Outstanding' would rank enbloc senior to those who are graded 'Very Good' and they would in turn rank enbloc senior to those who are graded as 'Good' and placed in select panel accordingly upto the number of vacancies for each Railway; officers with the same grading maintaining their inter-se-seniority in the feeder grade. So the selection being based on merit, supersession is not an uncommon feature.

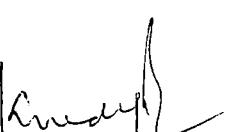
8. It is not in dispute that the applicant has been granted his due seniority in Group 'C' and Group 'B' in pursuance of the judgement dated 5.3.1993 in OA No.616/1988. The ~~only~~ grievance of the applicant is that he should be inducted into JTS (Group 'A') of IRTS service from the same date when his junior (Shri Harbhajan Ram) has been promoted to that grade. The other grievances of the applicant is that the Review DPC hasn't considered and assessed the ACRs of the relevant period while considering his case for promotion to JTS (Group 'A') of IRTS for the years 1991 to 1995. On perusal of the said DPC proceedings, we find that the applicant has been considered for promotion against the vacancies pertaining to the years 1991-1992, 1992-1993, 1993-1994, 1994-1995, 1995-1996 ~~and~~ after taking into consideration the ACRs of the relevant period. On the basis of ACRs, the applicant was assessed as 'Good' by the Review DPC whereas the other persons have been awarded higher grading of 'V.Good'. It is only because

of the lower grading obtained by the applicant in comparison to other candidates that he could not be included in the panel for induction into JTS of IRTS for the years 1991-1992, 1992-1993, 1993-1994, 1994-1995 and 1995-1996. The applicant has been considered by the regular DPC for promotion to Group 'A' service against the vacancies pertaining to the year 1996-97 and the DPC has assessed him as 'Very Good' and as such he has been rightly inducted in the panel of 1996-1997.

9. It is a settled legal position that Court <sup>or</sup> ~~and~~ Tribunal cannot substitute itself as a selection committee and make assessment for selection of the candidates for promotion to the next higher grade. It is exclusively the domain of the selection committee to make selection on the basis of the record of service of the candidates. In the present case, the applicant has been assessed by the Review DPC on the basis of his ACRs. It is because of the lower grading awarded to the applicant on the basis of the ACRs, he could not be inducted into JTS of IRTS from the date Shri Harbhajan Ram was promoted to that grade i.e. 13.12.1993.

10. In the light of the aforesaid discussion, we do not find any ground to interfere with the orders passed by the respondents and, therefore, OA is liable to be dismissed. We do so accordingly. No costs.

  
( M.P. Singh )  
Member(A)

  
( Kuldip Singh )  
Member(J)

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