

Central Administrative Tribunal, Principal Bench

Original Application No. 2474 of 2001

New Delhi, this the 11th day of March, 2002

**Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member (A)**

Laxmi Nath S/o Shri Durjan Singh
Working a Fitter Grade-I, under
I.O.W. Northern Railway
Rewari

- Applicant

(By Advocate: Shri M.K.Gaur)

Versus

1. Union of India through
G.M., Northern Railway
Baroda House, New Delhi
2. Divisional Railway Manager
Bikaner Division, Northern Railway
Bikaner (Rajasthan)

- Respondents

(By Advocate: Shri B.S.Jain)

ORDER (ORAL)

By Hon'ble Mr. S.A.T. Rizvi, Member (A)

By an order passed on 19.12.2000 in OA No. 1495/2000, the applicant was directed to be promoted as Fitter Grade-II w.e.f. 6.8.86 and as Fitter Grade-I w.e.f. 18.9.89, with consequential benefits. In compliance of the aforesaid order, respondents have issued letter dated 26.2.2001 (Annexure R-1) by which the applicant has been promoted as above. The salary and allowances payable have also accordingly been fixed by the same letter.

2. The applicant was under an impression that the grant of consequential benefits in accordance with the aforesaid order passed by this Tribunal would imply his further promotion to the post of Master Craftsman (in short 'MCM') which is the post next higher to the post of Fitter Grade-I. Since the respondents had failed to promote him

(9)

..... further beyond the post of Fitter Grade-I, the applicant came up before this Tribunal in a contempt petition which was dismissed on 27.8.2001. It was held that the applicant's further promotion to the post of MCM will amount to giving him a new relief altogether. Hence the present OA.

3. The learned counsel appearing on behalf of the respondents disputes the claim of the applicant for promotion to the post of MCM on the ground that the rules do not permit his promotion as yet and also on the additional ground that no post of MCM is available at present. The specific rule, he has placed reliance on, reads as under:

"The posts of Master Craftsmen scale Rs.425-640 be available for promotion to employees working in skilled Grade.I Rs.380-560 who have completed ten years of continuous service in the same or allied trade in the skilled Grades I, II & III inclusive of a period of at least three years service in skilled Gr. Rs.380-560."

4. Reliance has also been placed by the learned counsel on a further rule provision which lays down that before a Grade.I Fitter is promoted to the post of MCM, his suitability for such promotion is to be adjudged by a departmental committee. The relevant provision reads as under:

"The posts of Master Craftsmen will in partial modification of the prescribed Trade Test procedure be filled on the basis of suitability for the post being specifically adjudged by a Departmental Committee consisting of three Officers of whom two will be Technical Officers not lower than Senior Scale xxxx xxxx xxxx

(a)

(10)

a) The standard of Craftsmanship will be judged on the basis of persistent attainment of a very high skill covering both the quality of Craftsmanship and time for execution over a length of period rather than a single achievement

b) xxxx xxxx xxxx"

5. The learned counsel appearing on behalf of the applicant submits that the requirement laid down in the aforesaid rule ~~stands already~~ fulfilled in-as-much as the applicant has been promoted to the post of Fitter Grade-I retrospectively w.e.f. 18.9.89. He also submits that one Shri Babu Lal, a person junior to the applicant, has already been promoted as MCM vide respondents' letter dated 10.7.98 (Annexure A-5). The aforesaid Shri Babu Lal was promoted as Fitter Grade-I on 9.6.92 vide respondents' letter at Annexure A-4. There is no dispute about the said Shri Babu Lal being junior to the applicant. In this view of the matter, according to the learned counsel for the applicant, the applicant's claim is well founded and he deserves to be promoted to the post of MCM.

6. We have considered the submissions made by the learned counsel and find that despite the promotion of the applicant as Fitter Grade-I w.e.f. 18.9.89, it cannot be argued that he has rendered three years of actual service in that grade as yet. He stood promoted as Fitter Grade-I on 16.3.99 as directed by this Tribunal vide order dated 19.12.2000 in OA-1495/2000. His actual service in that grade will, therefore, count from 16.3.99. Viewed thus, he will complete three years of actual service as Fitter Grade-I on 15.3.2002 and will thus become eligible for promotion to the post of MCM, subject, of course, to vacancy

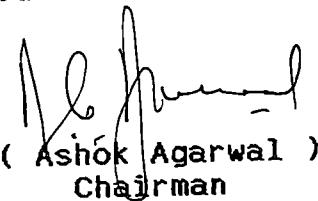
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and the suitability test to be carried out by a departmental committee. Since there is no vacancy in the post of MCM available at present, the respondents are not prepared to consider his case and the learned counsel appearing on their behalf submits that the present OA be dismissed. The applicant will retire on attaining the age of superannuation on 30.6.2004.

7. In view of what has been held above, the applicant will be entitled to be considered for promotion as MCM against any vacancy that arises after 16.3.2002 and before the applicant retires from service. We therefore find it just and proper to dispose of this OA with a direction to the respondents to consider the applicant's claim for promotion as above as and when a vacancy arises in the post of MCM in accordance with the aforesaid rules. The OA is partly allowed in the aforesated terms.



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



(Ashok Agarwal)
Chairman

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