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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

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O.A. NO. 2864/2001

NEW DELHI THIS 2ND DAY OF APRIL 2002

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Sh. Naresh Kumar Malik
S/o Sh. Gobind Ram Malik
Jr. Ticket Inspector under DRM Office,
CTI, Railway Station,
New Delhi

.....Applicant

(By B.S. Mainee, Advocate)

VERSUS

1. Union of India through
The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, State Entry Road,
New Delhi

.....Respondents

(By Sh. D.S. Jagotra, Advocate)

O R D E R (ORAL)

Challenge in this OA is directed against the two orders dated 22.1.2001 and 16.6.2001, issued by the respondents, granting him only proforma promotion and denying him the benefit of arrears of pay and allowances, on the ground that he had not shouldered higher responsibility.

2. Heard S/Shri B S Mainee and D S Jagotra, learned counsel for the applicant and the respondents respectively.

3. Applicant in this case had filed an earlier OA No. 2279/98, seeking assignment of seniority from 11.2.80, which was allowed on 19.9.2000, directing the respondents to assign him seniority from 11.2.80

with all consequential benefits and a cost of Rs. 2000/- following the above, the respondents by their order dated 22.1.2001, granted him seniority, promotion as Junior. Inspector w.e.f. 2.1.98 and fixation of pay on proforma basis. His representation for grant of arrears and the cost, dated 22.1.2001, has been rejected on 16.6.2001. As the applicant's promotion was delayed only on account of failure of the respondents, and he has been granted the benefit with consequential benefit, the latter could not have denied the arrears and cost. Sh. Mainee, learned counsel for the respondents, also relied upon the decision of the Hon'ble Supreme Court in UOI VS K.V. Jankiraman [JT 1991(3) SC 527].

4. In the reply on behalf of the respondents, reiterated by Sh D S Jagotra, learned counsel, the facts are not denied the facts but it is stated that in terms of Railway Board's instructions, in 831/E/25-III(E IV) dated 16.10.64, those who lost promotion due to administrative errors would get the benefit of promotion, from the correct date but that enhanced pay would be granted in the ^{Right} grade only from the actual date of promotion. That being the case the respondents have acted correctly and OA should fail, argues, Sh. Jagotra.

5. On careful consideration of the issues brought on record, I am convinced that the applicant's case

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has merit. His seniority fixed wrongly, having been set aright by the order of the Tribunal on 19.9.2000, while disposing of OA No , 2279/98, with all consequential benefits, he should be entitled to all the benefits in full. While the promotion has followed, but the respondents have exhibited their tight-fistedness, by making it only a proforma promotion denying him the benefits of arrears, holding that he was entitled for the higher emoluments only from the date of his holding higher responsibilities, cleverly overlooking the fact that the delay in promotion was purely on account of their failure and not on account of any fault of the applicant. Hon'ble Supreme court's decision in K V Jankiraman case is squarely applicable in this case. Respondents reliance on the letter dated 10.10.84 is misplaced. The applicant shall be entitled to the benefit of pay and allowances from the date of his promotion, along with arrears of pay and allowances. He would also be entitled to some interest on the delayed payment. Nothing remains on the request for the payment of cost of Rs.2000/- granted in the earlier OA as the same has been already paid.

6. In the result the OA succeeds and is accordingly allowed. The order No. 758E/596/Pt I/P2 dated 22.1.2001 and 729E/24/6981/P2 dated 16.6.2001, are

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quashed and set aside and the respondents are directed to grant the arrears of pay and allowances in the higher grade, from the date of his proforma promotion treating it as his actual promotion - from 2.1.98 to 22.1.2001 with interest thereon @ 12%. This shall be done within two months from the date of receipt of this order. No costs.



(Govindan S. Tampi)
Member (A)

Patwal/