

(13)

Central Administrative Tribunal
Principal Bench
OA No. 489/2001

New Delhi. This 24th day of April, 2002

Hon'ble Sh. Shanker Raju, Member (J)
Hon'ble Sh. S.K. Agrawal, Member (A)

Shri Durga Das Kapoor
S/o Shri Lal Chand
C-66, L Block, Saket
New Delhi-110067.

..... Applicant
(By advocate Sh. P.S. Mahendru, Advocate)

versus

Union of India
Through
1. The Secretary
Railway Board
Rail Bhavan
New Delhi-110001.

2. The General Manager
Northern Railway
Baroda House
New Delhi-110001.

..... Respondents
(By Sh. H.K. Gangwani, Advocate)

By Hon'ble Sh. S.K. Agrawal, Member (A)

ORDER

The applicant has filed this OA seeking relief for upgradation to the post of Material clerk in the scale of Rs. 110-180 w.e.f. 1.1.1964 with directions to the respondents to revise and refix the pay of the applicant in that scale with all consequential benefits.

2. The applicant worked as material issuer in the scale of Rs. 105-135/- (AS) in the Electrical Workshop Delhi from 27.9.63 to 23.11.70 and thereafter he was promoted as materials clerk in the grade of Rs. 110-180/- (AS) and posted in the S&T branch of headquarters office. He retired from railway service



at the age of superannuation on 30.6.1986, from the post of Senior clerk.

3. Ld. counsel for the applicant stated in his arguments that the Railway board vide letter 27.9.1963 had decided that in department other than stores two designations shall be used namely Material Checker and Material clerk depending upon the duties performed by them. He also stated that the Railway Board vide its letter dated 30.5.1964 had directed the General Managers of all the railways to review all posts in scale of Rs. 105-135/- carrying various designation in the light of duties laid down for material checkers and material clerks. It was accordingly submitted that since the applicant was working and performing the duties of material clerk, he was entitled to be given that rank w.e.f. 1.1.1964 in the scale of Rs. 110-180.

4 The learned counsel for the respondents submitted in his arguments that according to the Boards letter dated 27.9.1963, only 20% of the promotee quota was to be upgraded and as such two posts of material checkers were upgraded and two seniormost staff were allowed the benefit of upgradation to the post of material clerk. The applicant being junior among all the considered people was not entitled for the post of material clerk. The respondents counsel also submitted that even if the applicant was performing the duties of material clerk, he could not have been promoted to the post of material clerk because as per the instructions issued by Railway Board vide letter 27.9.1963 only 20%



of the material checkers in the grade Rs. 105-135 were to be promoted to the grade of material clerk in the grade of Rs. 110-180/-.

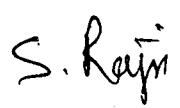
5. The respondents counsel also pleaded that no fresh cause of action would arise from the decision of April, 1996 passed by the Pension Adalat wherein the petition of the applicant was rejected by that court. He also submitted that the applicant is not entitled for the said relief as it has been claimed after a long gap of more than 20 years which will involve large scale disturbances in the cadre.

6. Heard the counsel on either side.

7. After hearing arguments of the learned counsel of the applicant and respondents and also after going through the records of the case we are of the view that the Railway Board in its letter dated 27.9.1963 had specifically mentioned that only 20% of the cadre was to be upgraded to the post of material clerk and on that basis only two posts were to be upgraded. As such the senior most material checkers were allowed the grade of material clerk in the scale of Rs. 110-180/. The applicant being junior to those persons was not entitled for being promoted to the grade of material clerk. We, therefore, do not find any merit in the present OA.

8. Accordingly the OA is dismissed. No cost.


(S.K. Aggarwal)
Member (A)


(Shanker Raju)
Member (J)