

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.2051 of 1999

New Delhi, this 5th day of November 2000

HON'BLE SHRI KULDIP SINGH, MEMBER(J)
HON'BLE SHRI M.P. SINGH, MEMBER(A)

Om Prakash Khatri
S/o Shri Lakh Ram Khatri
R/o RZ-86 Block No.1/67
Gali No.3 Dada Chatriwala Marg
Raj Nagar, Pt.I, Palam Colony
Delhi-110045

...Applicant

(By Advocate: Shri S.K. Sawhney)

versus

1. Union of India, through
General Manager
Northern Railway
Baroda House, New Delhi

2. Shri Sewa Ram Premi
Supdt. Grade-I
Works Branch
Northern Railway
Baroda House, New Delhi

3. Shri Charanji Lal
Supdt. Grade-I
Works Branch
Northern Railway
Baroda House
New Delhi

... Respondents

(By Advocate: Shri R.P. Aggarwal for
official respondents and Shri Prakash
Chandra for private respondents)

ORDER

Hon'ble Shri M.P. Singh, M(A)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 challenging the action of the respondents in processing the case of respondent Nos. 2 & 3 (Scheduled Caste employees) for promotion to the newly created post of Chief Office Superintendent (COS, for sort) in the scale of Rs. 7450-11500.



(16)

2. The brief facts of the case as stated by the applicant are that he was appointed as LDC in December 1963 and subsequently promoted to the post of Superintendent Grade-I in the scale of Rs.6500-10500 in April 1991. He was eligible for further promotion to the post of COS created on 27.5.1996. Respondent Nos.2&3 belong to the SC community and their names appear at Sl.No.2 and 3 of the seniority list (Annexure A.2 to OA), while the name of the applicant is placed at Sl.No.5 of the said seniority list. Employees at Sl.No.1 and 4 have already retired and hence the applicant is the senior-most general category employee.

3. According to the applicant, the respondents have initiated the process of promotion of respondent Nos.2&3 against the newly created two posts. He has contended that respondent Nos.2&3 cannot be considered for promotion to the newly created posts of COS as they attained their seniority on the basis of accelerated promotion and they were competing for the general category post. Even otherwise not more than 50% of the vacancies can be reserved for SC/ST/OBC in a year as provided by DoP&T O.M. dated 29.8.1997. The applicant has submitted his representation on 9.9.1999 to the respondents, but the same was orally rejected. Aggrieved by



17

this, he has filed this OA praying for direction to the respondents not to consider respondent Nos.2&3 for promotion to the post of COS in preference to him and has also sought direction to the respondents to consider him for promotion to one of the two newly created posts of COS.

4. The respondents, in their reply, have contested the case by stating that respondent No.2 is presently the senior-most person even if he had got the accelerated promotion in the post. However respondent No.3 has become senior to the applicant on the basis of accelerated promotion. In pursuance of the Hon'ble Supreme Court's judgement in Ajit Singh Juneja Vs State of Punjab, the matter has been referred to Railway Board and DoF&T for seeking guide-lines which are still awaited. According to them, when an employee including the one belonging to reserved category comes in general seniority, he will have to be considered for all posts even for the posts which are unreserved. There are two posts of COS which have been created and these will be filled up in accordance with rules and clarification from Ministry of Railways and DoF&T. In view of the aforesaid facts, the applicant is not entitled to any relief as prayed for and the application is premature as no cause of action has arisen.



5. Heard both the learned counsel for the rival contesting parties and perused the record.

6. On perusal of records placed before us, we find that two posts of COS in the grade of Rs.7450-11500 have been created vide order dated 10.5.1998. As per this sanction order, the staff who are placed in the higher grades will draw pay in the respective higher grade with effect from the date of issue of the orders, i.e. with effect from 10.5.1998. The letter further stipulates that the number of posts to be operated in these scales will be with reference to the sanctioned cadre strength as on the date of issue of the orders. In other words, eligible persons can be appointed to these posts with effect from the date of issue of the orders. It is seen from the from the reply given by the respondents that respondent No.3 was transferred from Jodhpur to HQ on 16.9.1964 and was given bottom seniority and was junior to the applicant. It is because of the fact that respondent No.3 being a SC candidate has got accelerated promotion and has become senior to the applicant.

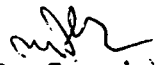
7. It is also seen from the provisional seniority list dated 4.8.2000 (Annexure A1 to the rejoinder) issued by the respondents that the applicant is shown at S.No.1 and respondent No.3 at SI.No.4. The provisional seniority list has

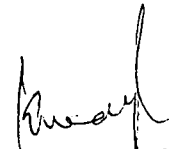


(19)

been issued in pursuance of the Supreme Court judgement dated 16.9.1999 in the case of Ajit Singh & Others Vs State of Punjab & Others. Thus the applicant has become senior to respondent No.3. Out of the two posts, not more than one post can be reserved for the candidate belonging to SC/ST category as per orders. Since the applicant has been shown as senior to respondent No.3 in the seniority list dated 4.8.2000 he can be considered for promotion to the post of COS against one of the newly created two posts.

8. In view of the reasons recorded above, the OA is allowed and the respondents are directed to consider the applicant for promotion to the post of Chief Office Superintendent in the scale of Rs.7450-11500, within a period of three months from the date of receipt of a copy of this order. No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

dbc