

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O A No. 38/99

New Delhi: this the 4th day of February, 2000.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MR. KUL DIP SINGH, MEMBER (J)

Amarjeet Kumar,
S/o Shri Madan Lal,
R/o Qr. No. 58/A-2,
Chotti Mor Sarai, Railway Quarters,
Delhi-6

.... Applicant.

(By Advocate: Shri B.B. Raval).

Versus

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

2. The Divisional Railway Manager,
Northern Railway,
Chelmsford Road,
New Delhi-1.

3. The Director (Vigilance),
Railway Board,
Rafi Marg,
New Delhi-1

..... Respondents.

(None appeared)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' orders dated 26.8.98 (Annexure-A) promoting him as Highly Skilled Fitter Gr. I w.e.f. 16.6.95, but granting him the benefit only on proforma basis, and on actual basis only w.e.f. 23.10.97 when he took over as H.S. Fitter Gr. I. Interest and costs are also prayed for.

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2. Applicant had earlier filed OA No.1018/98 which was disposed of by order dated 21.5.98. In that OA he had contended that he had appeared in the trade test for the post of H.S.Fitter Gr.I and he had also passed the trade test, but he was not promoted as his name was not printed correctly in the list, his name having been recorded as Amarjeet Singh instead of Amarjit Kumar, as a result of which his juniors were getting more pay than him. He had stated that he had filed a representation on 3.11.97 for his promotion with retrospective effect, but the same had not been disposed of.
3. By the Tribunal's order dated 21.5.98, OA No.1018/98 was disposed of with a direction to respondents to dispose of that representation by a speaking and reasoned order within 3 months, with liberty given to applicant to approach the Tribunal afresh if he was not satisfied, in accordance with law.
4. Admittedly respondents have issued the impugned order dated 26.9.98 pursuant to the aforesaid directions of the Tribunal dated 21.5.98.
5. Respondents have relied upon para 228 IRM Vol.I to deny applicant arrears/pay and allowances with effect from the date of his promotion on the ground that applicant did not actually shoulder the duties and responsibilities of the higher post. This paragraph is akin to FR 17(1), but in K.V.Janaki Raman Vs. UOI 1991 SCALE 423, the Hon'ble Supreme Court has

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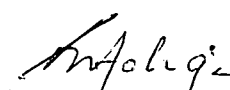
held that ^{the} normal rule that a person cannot be allowed to draw the benefit of a post the duties of which he has not discharged, would not be applicable in a case where an employee, although willing to work, was kept away from work by the authority for no fault of his own, and FR 17(1) would also be inapplicable in such cases. Again in State of A.P. Vs. K.M. Narasimha Rao & Ors. JT 1999(3) SC 205 the Hon'ble Supreme Court has held that in normal circumstances when the retrospective promotions are effected, all benefits flowing therefrom including monetary benefits must (emphasis added) be extended to an officer who has been denied promotion earlier.

6. Clearly in the present case, there are no abnormal circumstances, and it is also a case where applicant was not promoted w.e.f. 16.6.95 as H.S. Fitter Gr.I for any fault of his own.

7. In the circumstances the OA succeeds and is allowed. The impugned order dated 26.8.98 to the extent that it grants applicant only notional promotion w.e.f. 16.6.95 and denies him monetary and other benefits from the date of promotion is quashed and set aside. Respondents are directed to grant applicant monetary and all other consequential benefits, including arrears with effect from the date of his promotion on 16.6.95. These directions should be implemented within 4 months from the date of receipt of a copy of this order. The prayer for grant of interest and costs are rejected as there are no good grounds made out to warrant grant of the same.


(KULDEEP SINGH)
MEMBER(J)

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(S.R. ADIGE)
VICE CHAIRMAN (A).