

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No. 2222/98

New Delhi: this the 27 day of September, 2000.

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

HON'BLE MR. KULDIP SINGH, MEMBER (J)

1. Kaushal Kumar,  
S/o Shri Hans Raj,  
146-A, DCM, Railway Colony,  
Opposite Delhi Cloth Mill,  
Delhi.

.....Applicant.

(By Advocate: Shri P.M. Ahlawat)

Versus

Union of India  
through,

General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

2. Divisional Railway Manager,  
Northern Railway,  
Bikaner (RAJ)

.....Respondents.

(By Advocate: Shri R.P. Agarwal).

ORDER

Mr. S.R. Adige, VC(A)

Applicant impugns respondents' order dated 9.10.98 (Annexure-A1). He seeks a direction to respondents to promote him as Booking Supervisor w.e.f. 28.1.94, the date of expiry of punishment; or grant him proforma promotion w.e.f. 13.4.94 which is the date of promotion of his junior as a result of modified selection, with consequential benefits.

2. Admittedly applicant while working as Head Booking Clerk was awarded the punishment of reduction to lower post/grade/service of Sr. Booking Clerk by order dated 28.1.92 for a period of 2 years with postponement of future increments and loss of seniority. Meanwhile modified selections were held in 1994 for

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filling up posts upgraded as Booking Supervisor w.e.f. 1.3.93. It is not denied that persons junior to applicant were so promoted by order dated 13.4.94 (Annexure-A 3) w.e.f. 1.3.93. Respondents state that applicant's case was also considered along with the others, but he was not found fit and was therefore not considered for promotion. In view of the punishment that applicant was undergoing, Respondents cannot be faulted for not selecting applicant for promotion as Booking Supervisor w.e.f. 1.3.93.

3. Subsequently on applicant's appeal, by order dated 28.8.98, the punishment was reduced to reduction in lower post/grade/service for 2 years without postponing future increment/loss of seniority.

4. Subsequently applicant was promoted as Booking Supervisor on adhoc basis vide Notice dated 5.8.94 w.e.f. 13.8.94, but was reverted by order dated 9.10.98 as he could not clear the selection test.

5. Applicant contends that he should have been promoted w.e.f. 13.4.94, because <sup>then</sup> ~~at~~ currency of his punishment had expired on 28.1.94, but the order dated 13.4.94 promoting applicant's juniors took effect retrospectively from 1.3.93 when the punishment order dated 28.1.92 was very much in force.

6. As noted above, the promotion to the grade of Booking Supervisor was through selection. Applicant has an enforceable legal right only to be considered for selection if he is eligible and admittedly applicant was considered for selection. If, having regard to the punishment applicant was undergoing

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respondents did not select him for promotion as Booking Supervisor consequent to restructuring by order dated 13.4.94 w.e.f. 1.3.93, it cannot be said that they have acted illegally or arbitrarily so as to warrant judicial interference. No rule or instruction has been brought to our notice which requires respondents to promote applicant as Booking Supervisor on regular basis on 28.1.94 itself, the day his punishment ceased to have effect. Promotion as Booking Supervisor on regular basis w.e.f. 28.1.94 presupposes the <sup>existence,</sup> ~~extension~~ of a vacancy of Booking Supervisor on that date, and there is not even an averment to that effect in the OA.

7. The OA is dismissed. No costs.

*Kuldip Singh*  
 ( KULDIP SINGH )  
 MEMBER (J)

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

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