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Hon'ble Shri R.K.Ahooja, Member(A)  
Hon'ble Shri Syed Khalid Idris Naqvi, Member(J)

R.C.Srivastava  
Retd. Asstt. Works Manager/Jamalpur  
Residence - 63, Adan Bagh  
P.O.Dayalbagh  
A G R A - 5 (UP). ... Applicant

vs.

1. Union of India through  
Secretary  
Ministry of Rlys., Rail Bhawan  
New Delhi - 110 001.
  2. General Manager  
E.Rly. Headquarters  
Fairlie Place  
CALCUTTA(WB).
- .. Respondents

(By Shri R.L.Dhawan, Advocate)

Hon'ble Shri R.K.Ahooja, Member(A)

Heard the counsel for the respondents. The OA is being disposed of in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987, on the basis of the available pleadings on record and the argument advanced by the learned counsel for the respondents.

2. The applicant entered the Eastern Railway as an Apprentice Mechanic on 1.4.1954. He obtained promotion as Assistant Shop Superintendent on regular basis on 1.6.1966. The next promotional post in this line was that of Foreman-A. A vacancy arose in the cadre of Foreman-A on 1.1.1972. The applicant officiated in that vacancy from 1.6.1973 to 2.7.1973.

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On the return of regular incumbant, he was however reverted. The suitability test for the promotion to the grade of Foreman-A was held on 10.2.1973. The applicnat was also declared successful. Aggrieved that he was not regularly promoted, even though a vacancy was available, till 1.1.1977 he came before the Tribunal in OA No.344/89 which was heard by the Patna Bench. The Patna Bench of this Tribunal had disposed of the said OA with the following directions:

"10. From the above discussion it would be clear that the applicant has been rightly given seniority in the grade of Foreman-A from 1.1.1977. We do not find any error in that. Accordingly, we see no merit in this application.

11. The application is dismissed."

3. The applicant thereafter filed another OA No.305/90 before the Patna Bench regarding the inclusion of his name in the panel for the post of Assistant Mechanical Engineer/Assistant Works Manager. The said OA was decided by an order dated 21.11.1990 with the following directions:

"For the reasons discussed above, we direct the respondents to reconsider the applicant for inclusion in the panel on the basis of his service records minus the uncommunicated adverse entries and on the basis of a personality test to be assessed through a viva voce test. The applicant will not be subjected to a written test. He has already qualified in that test."

4. The applicnat has ultimately retired from service on 31.7.1993 in the post of Assistant Works Manager/Asstt. Energy Manager, Eastern Rly., Jamalpur (Bihar). The relief originally sought for in the present OA was to fix his seniority and pay in Class-II service from the date his next junior Shri M.K.Bhattacharjee was promoted as AWM in Class II

Dr

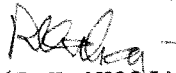
fixation of pay in the Sr. Scale 3000-4500 (RPS) from the date the junior, Shri M.K.Bhattacharjee was promoted.

5. We notice that the applicant thereafter filed a MA to amend the relief sought for by him. In that he omitted the name of Shri M.K.Bhattacharjee and brought in one Shri K.P.Mehto who according to him was junior to him but was granted promotion over him in the Grade of 3500 from 24.6.1987.

6. It has been rightly pointed out by the respondents in the reply that the applicant had at no stage made any representation to them in regard to his claim vis-a-vis Shri K.P.Mehto. Even otherwise his whole case is based on Shri M.K.Bhattacharjee who was allegedly given seniority over him in Class-II. No case has been made out vis-a-vis Shri Mehto nor this issue was agitated with the respondents.

7. For the aforesaid reasons, the OA is dismissed. No costs.

(SYED KHALID IDRIS NAQVI)  
MEMBER(J)

  
(R.K.AHOOJA)  
MEMBER(A)

/RAO/