

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2325/1995

New Delhi this the 15 day of September, 1999.

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

HON'BLE SHRI SYED KHALID IDRIS NAQVI, MEMBER (J)

Madan Mohan Gola S/O Hari Chand,
R/O H. No.3220, School Street,
Paharganj,
New Delhi.

... Applicant

(By Shri S. K. Sawhney, Advocate)

-Versus-

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

2. Divisional Railway Manager,
Northern Railway,
Chelmsford Road,
New Delhi.

... Respondents

(By Shri N. K. Aggarwal, Advocate)

O R D E R

Shri Syed Khalid Idris Naqvi, JM :

Shri Madan Mohan Gola has come up before the Tribunal seeking relief that respondents be directed to promote him to the post of Chief Law Assistant grade Rs.2000-3200 w.e.f. 1.3.1993 with all consequential benefits of arrears of pay.

2. The applicant has submitted that while he was working as Law Assistant with effect from December, 1989 he was regularised in November, 1992. As a result of restructuring of cadre 13 posts of Law Assistants grade Rs.1600-2660 were upgraded to the post of Chief Law Assistant scale Rs.2000-3200. 11

S. K. Sawhney

persons were promoted vide letter dated 9.5.1994, Annexure A-5, and two posts remained unfilled as the persons entitled for such promotion had not completed two years' service in the feeder cadre as required under the extant rules. The applicant was the next seniormost person available for such promotion as he had completed two years working in the lower grade which included ad hoc working which was followed by regularisation without break. The applicant asserts that his case was covered by Railway Board's letter dated 19.2.1987, Annexure A-7 and, therefore, his services as ad hoc Law Assistant followed by regularisation without break were to be taken into account. The applicant has further mentioned that as a result of restructuring ordered by the Railway Board 13 posts of Law Assistants were upgraded to the post of Chief Law Assistant w.e.f. 1.3.1993 and 11 seniormost persons were ordered to be promoted vide letter dated 9.5.1994 and two vacancies remained unfilled against one of which he submitted his representation on 9.9.1994 claiming that he was entitled to the upgraded post as he was the first available seniormost person who had completed two years service in the feeder cadre. It is stated that the claim of the applicant was covered by provisions of para 2 (ii) of the Railway Board's letter dated 19.2.1987, Annexure A-7. As at present, the applicant is working as Chief Law Assistant in the grade of Rs.2000-3200 under the impugned order dated 12.5.1995 without giving him benefit of his ad hoc service.

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3. The contention of the applicant has been controverted by the respondents by filing counter reply. The question before us is whether the applicant is entitled to get the benefit of his ad hoc service which resulted in regularisation without break.

4. We have heard the arguments placed by rival contesting parties and perused the record.

5. It is evident from Annexure A-5, i.e., order dated 9.5.1994 that only nine persons were promoted and not eleven, as alleged by the applicant. It has been brought on record from the side of the contesting respondents that as a result of cadre restructuring in the cadre of Law Assistant grade Rs.1600-2660 vide Railway Board's letter dated 27.1.1993, only ten posts of Law Assistants were upgraded to that of Chief Law Assistant grade Rs.2000-3200 w.e.f. 1.3.1993 and the benefit of cadre restructuring against the ten upgraded posts had to be allowed to the seniormost staff due for promotion as Chief Law Assistant. The applicant was not senior enough to be allowed promotion to the upgraded post, hence no benefit under cadre restructuring could be given to him nor was due to him on the basis of his seniority position in the cadre of Law Assistants. His promotion as Law Assistant in the Delhi Division was on purely ad hoc basis with the clear stipulation that the said ad hoc promotion will not confer upon him any right for future promotion.

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6. The claim of the applicant that his ad hoc service followed by regularisation should count towards seniority gets negated by the law laid down by the Hon'ble Supreme Court in STATE OF GUJARAT v. C. G. RAIYANI, SLJ 1995 (2) 20 in which the respondent was appointed on ad hoc basis in May, 1969 without following acceptable process of selection which was followed by regular appointment by the Service Selection Board and his services were regularised w.e.f. July, 1972. The service rendered by the respondent in that case between May, 1969 and July, 1972 was not taken into account for purposes of regularisation/seniority. This view was followed by the Jodhpur Bench of this Tribunal in O.A. No.271/94 decided on 16.8.1996.

7. With the above discussion, we find no force in the contentions of the applicant and there is no good ground for interference by the Tribunal. The application is accordingly dismissed. No costs.

R.K.Ahooja
(R. K. Ahooja)

Member (A)

Syed Khalid Idris Naqvi
(Syed Khalid Idris Naqvi)

Member (J)

/as/