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Principal Bench, New Delhi.

O.A.No.648/95

New Delhi this the 6th day of December, 1995.

Hon'ble Sh. A.V. Haridasan, Vice-Chairman(J)
Hon'ble Sh. B.K. Singh, Member(A)

Shri Rishi Pal,
S/o Sh. Budh Singh,
Khallasi,
Signal Workshop
Northern Railway,
Ghaziabad.

Applicant

(through Sh. B.S. Mainee, advocate)

versus

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

2. The Chief Signals Engineer,
Northern Railway,
Headquarter Office,
Baroda House,
New Delhi.

3. The Chief Workshop Manager,
Signal Workshop,
Northern Railway,
Ghaziabad.

Respondents

(through Sh. P.S. Mahendru, advocate)

ORDER(ORAL)

delivered by Hon'ble Sh. A.V. Hardasan, V.C.(J)

The applicant who was working as a Substitute Khallasi was dismissed from service pursuant to disciplinary action. He filed an appeal against the order of dismissal which was also rejected. Aggrieved by that, O.A.No.1379/90 was filed assailing the dismissal as also the Appellate Authority's order confirming the order of the Disciplinary Authority, which was disposed of by an order dated 9.7.1993 setting aside the orders impugned therein, with a direction to reinstate the applicant in the post in which he was appointed, with consequential benefits. In



view of the above directions, the applicant was reinstated in service and he was also paid arrears of pay and allowances. His present grievance is that though several juniors to him were screened, absorbed and promoted to higher post, he is still retained as a Substitute Khallasi without being regularly absorbed in service and promoted. He, therefore, filed this present application praying that the respondents may be directed to consider the applicant for regularisation/absorption/promotion to the post of Helper Khallasi from the date his juniors have been regularised and promoted with all consequential benefits of fixation of pay, arrears & seniority etc.

The respondents have in their reply stated that the applicant was not screened and absorbed while his juniors were so screened and absorbed which was because of the fact that he was out of service pursuant to the order of dismissal before reinstatement. Since no screening has so far taken place, the case of the applicant for regularisation/absorption/promotion could not be considered but it was indicated by them that the same would be done in due course.

We have heard the learned counsel for the parties.

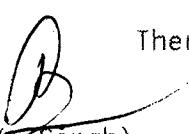
The learned counsel of the applicant states that since the order of dismissal has been set aside, and the respondents have reinstated the applicant with full back wages, the applicant is also entitled to the

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consequential benefits of screening/regular absorption and promotion with effect from the date the persons junior to him were promoted. This argument has considerable force which cannot be resisted. The natural and legal consequences of setting aside the order of dismissal from service and direction for reinstatement with consequential benefits is that the applicant would be considered to have continued in service and given benefits on that footing. Since the fact that certain juniors of the applicant have been screened/absorbed and have been promoted is not disputed, the respondents are bound to consider the case of the applicant in the same line.

In the light of what is stated above, we direct the respondents to have the screening of the applicant for regular absorption completed within a period of three months from the date of communication of a copy of this order and if found suitable, absorb him in regular service from the date when his juniors were so absorbed and to consider him for further promotion from the date when any junior has been considered and promoted. The consequential benefits from such regular absorption/promotion shall also be made available within a period of two months from the date of regularisation/promotion etc.

There is no order as to costs.


(B.K. Singh)
Member(A)

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(A.V. Haridasan)
Vice-Chairman(J)