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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.1593/1996

New Delhi this the 17th day of February, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SMT. SHANTA SHAstry, MEMBER (A)

R. C. Arora S/O Khairati Lal,  
Senior Electrical Foreman (Const.),  
Northern Railway,  
Tilak Bridge,  
New Delhi.

... Applicant

( By Shri B. S. Maine, Advocate )

vs.

1. Union of India through  
Secretary, Ministry of Railways,  
Rail Bhavan, New Delhi.

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

3. Chief Electrical Engineer,  
Northern Railway,  
Baroda House,  
New Delhi.

... Respondents

( By Shri D.S. Jagotra, Advocate )

O R D E R (ORAL)

Sh. Justice Ashok Agarwal:

By the present O.A. applicant seeks upgradation from the post of Electrical Foreman Grade-II Rs.550-750 to Electrical Foreman Grade-I Rs.700-900. Upgradation is claimed on the basis of an order passed by the Government of India, Ministry of Railways on 1.5.1984 in respect of cadre review and restructuring of Group 'C' cadres at Annexure A-4. By the order, existing percentage of upgradation which was 15% has been revised to 27%. Under the instructions contained in

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the order, upgradation to the extent of 27% of the Electrical Foreman Grade-II was to be ~~done~~ <sup>made</sup> with effect from 1.1.1984.

2. Prior to 1985, there was a common seniority list of the aforesaid cadres in respect of the entire Northern Railways. The same was, however, decentralised w.e.f. 6.6.1985 vide Annexure A-9. Since certain Electrical Foreman Grade-II who were junior to the applicant were upgraded in preference to the applicant, applicant and one other filed O.A. No.1025/89. By a judgment and order passed on 13.5.1993, it has, inter alia, been observed as under:

.....The contention of the learned counsel for the petitioner is that in the Lucknow Division the staff at serial Nos. 228, 233, 252, 260 and 261 were promoted to the grade of Rs.700-900 w.e.f. 1.1.1984 vide order dated 24.12.1985 whereas in Allahabad Division serial Nos. 234, 237, 238, 239, 241 and 245 were promoted w.e.f. 1.1.1984 vide order dated 22.9.1989 against the upgraded post. The petitioners, as earlier said, are at serial Nos. 231 and 235 of the seniority list in the grade of Rs.550-750 (which is the feeder cadre) notified on 10.3.1981. Admittedly most of the persons promoted in Allahabad and Lucknow Divisions are junior to the petitioners in 1981 seniority list. The petitioner No.1 represented on 16.12.1985, 7.5.1986 and 11.11.1988. There was no response. It is, therefore, averred that according to the well established law the petitioners should have been promoted on the basis of the combined seniority list, as the restructuring order was issued on 1.5.1984 whereas the decentralisation of the electrical cadre, of Rs.700-900 was done vide order dated 6.6.1985. The vacancies which existed on 1.1.1984 should have been filled up in accordance with the rules prevalent at the time when the vacancies arose. The learned counsel for the petitioners also relies on the judgment of the Tribunal in OA 989/89 decided on

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27.11.1991 between K.P. Singh & Ors. Vs.  
Union of India through the General Manager,  
Northern Railway & Ors."

"The principal grievance of the petitioners is that the upgraded posts should have been filled in accordance with the combined seniority in the feeder grade. The seniority unit was decentralised in June, 1985 whereas the upgradation orders were issued on 1.5.1984. On 1.5.1984 the rules prescribed combined seniority in the scale of Rs.550-750. All posts in Rs.700-900 which became available consequent to restructuring would, therefore, require to be filled on the basis of combined seniority and not on the basis of decentralised seniority.

In view of the above discussion, we order and direct that the respondents shall consider the case of the petitioners for promotion in the scale of Rs.700-900 to the upgraded posts with effect from 1.1.1984 in accordance with the combined seniority which was relevant at the time when the upgradation order dated 1.5.1984 was issued. The respondents shall take a decision in accordance with the above directions as early as possible but preferably within four months from the date of receipt of a copy of this order. In case the petitioners are promoted against the upgraded posts in accordance with the above directions, they shall be entitled to consequential benefits by way of salary and allowances, if admissible under the scheme of restructuring of the cadres."

3. Consequent upon the aforesaid order, the General Manager, Northern Railway has passed an order on 30.11.1993 at Annexure A-1. By the order, those who were found within the 27% quota were given upgradation in compliance with the order of the Tribunal. Upgradation was given w.e.f. 1.1.1984. The same was with respect to common seniority list as prevailing on that date, i.e., 1.5.1984 which is the date of the issue of the order of upgradation. As far as applicant is concerned, he did not fall within the

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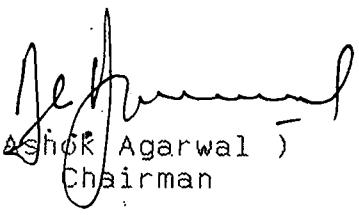
27% quota and hence was not given upgradation as claimed.

4. Applicant has once again approached this <sup>very</sup> Tribunal with the same prayer which he had made in the earlier O.A., namely, the claim of upgradation under the orders issued on 1.5.1984, which claim was considered by the General Manager in terms of the directions issued by the Tribunal in its order passed on 13.5.1993. However, since applicant did not fall within the 27% quota, his claim has not been granted.

5. Shri Maine, the learned advocate appearing on behalf of the applicant, has, by reference to the order passed on 30.11.1993 at Annexure A-1, made a grievance in regard to promotions granted to other candidates who were junior to applicant in the combined seniority list. Shri Maine is overlooking the fact that there has been decentralisation w.e.f. 6.6.1985 and hence promotions granted in the other Divisions such as Lucknow and Allahabad are based on the regional seniority lists. The same cannot be impugned on the basis of the combined seniority list which has ceased to hold the field w.e.f. 6.6.1985 when there was decentralisation. As far as the erroneous promotions which had been earlier granted in the Lucknow and Allahabad Divisions are concerned, the same, by the instant order of 30.11.1993, have been withdrawn and excess payments made to the candidates concerned have been directed to be recovered.

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6. Having regard to the aforesated facts, we do not find that applicant is entitled to the relief claimed in the present O.A. Present O.A., in the circumstances, is dismissed. There will, however, be no order as to costs.

  
( Ashok Agarwal )

Chairman

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( Shanta Shastry )  
Member (A)

/as/