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Central Administrative Tribunal, Principal Bench

Original Application No. 1894/96

New Delhi, this the 8th day of March, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman  
Hon'ble Mr. V.K. Majotra, Member (Admnv)

Inderjit Khateri,  
S/o Shri Mathura Dass,  
retired I.O.W.,  
H.No. T-27, Green Park,  
New Delhi.

Applicant.

(None present)

Versus

1. Union of India through  
The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, Allahabad Dn.,  
Allahabad (UP).
3. The Assistant Engineer,  
Northern Railway,  
Tundla (UP).

Respondents.

(None present)

O R D E R (Oral)

By Shri V.K. Majotra, Member (Admnv) -

The short grievance of the applicant is that whereas a similarly situated person, namely, Shri K.R. Jain, who was appointed in service on the same date as the applicant has been given promotion as IOW Grade-II in the pay scale of Rs.1600-2660 w.e.f. 31.5.1986 vide order dated 30.10.1995, the applicant has been discriminated against and denied promotion w.e.f. 31.5.1986, instead he has been given promotion from 25.1.1996 (Annexure A-I).

2. The applicant was appointed in the Railway Department on 1.4.1960 and superannuated on 30.6.1996. According to the applicant, while working as SOM (under IOW Tundla in Allahabad Division) on 10.12.1981 he was

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promoted on ad hoc basis to the post of IOW Grade-III in the pay scale of Rs.1400-2300 along with Shri K.R. Jain. Both were regularised on the post of IOW Grade-III. The applicant claims that on 17.1.1992 a panel was prepared for promotion to the post of IOW Grade-II in which his name was included. Shri K.R. Jain filed an O.A. 1166/93 before the Allahabad Bench of the Tribunal for his promotion retrospectively. On the basis of the judgement of the Tribunal, Shri K.R. Jain has been accorded promotion as IOW Grade-II (Rs.1600-2660) vide respondents' order dated 30.10.1995, also accepting his entitlement for the benefits of promotion w.e.f. 31.5.1986. The applicant has sought promotion to the post of IOW Grade-II in the pay scale Rs.1600-2660 w.e.f. 31.5.1986 as granted to the similarly situated person, namely, Shri K.R. Jain vide respondents' order dated 30.10.1995 with all consequential benefits and arrears.

3. The respondents have stated in their written statement that the applicant was initially appointed as Khalasi on date 1.10.1959 and promoted as SOM from 1.3.1979. Subsequently, he was appointed to officiate as IOW Grade-III Rs.1400-2300 w.e.f. 12.12.1981 purely temporarily on ad hoc basis. The respondents have distinguished Shri K.R. Jain's case from the instant case stating that though Shri K.R. Jain was promoted as IOW Grade-III w.e.f. 9.8.1983 on ad hoc basis but his ad hoc promotion was regularised after viva-voce test as per the Tribunal's decision in OA No. 1166/93. Shri K.R. Jain's name was placed below 1980 panel of IOW Grade-III. Whereas Shri K.R. Jain had appeared in the selection to the post of IOW

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Grade-II held in the year 1972, the applicant had not appeared in the said selection. The respondents have also controverted the applicant's claim for working as SOM and pleaded that the applicant did not fall within the field of eligibility for the post of IOW Grade-III. Regarding the claim of the applicant that one Shri Vipin Agarwal, who was junior to the applicant had been promoted, the respondents have stated that Shri Vipin Agarwal came on transfer at his own request from Ferozepur Division on 4.11.1981 whereas the applicant was regularly promoted as IOW Grade-III w.e.f. 17.1.1992 and consequently Shri Agarwal was senior to the applicant and was promoted to the post of IOW Grade-II earlier than the applicant. The respondents have denied having promoted any junior to the applicant earlier than him.

4. The applicant has filed a rejoinder as well.

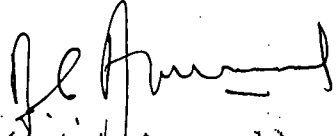
5. We have examined the material before us on record. We go along with the respondents that applicant's case is distinguishable from Shri K.R. Jains and, therefore, the applicant cannot derive any benefit from the judgement in O.A.1166/93. Whereas Shri K.R. Jain had passed through the mill by appearing in the selection process and clearing the viva-voce test for the post of IOW Grade-III conducted in the year 1972, the applicant had not appeared in the said selection. The respondents have successfully proved seniority of Shri Vipin Agarwal to the applicant in the matter of regular promotion as IOW Grade-II, w.e.f. 4.3.1993. <sup>h</sup>

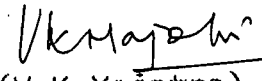
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6. In the light of the above discussion, the applicant has failed to make out a case to derive any benefit from the aforesaid judgement of the Tribunal in the matter of K.R. Jain. He is found to be ineligible for promotion to the post of IOW Grade-II with effect from the date Shri K.R. Jain or Shri Vipin Agarwal were promoted on regular basis. Accordingly, this O.A. is dismissed being devoid of merits. No order as to costs.

  
(Ashok Agarwal)  
Chairman

  
(V.K. Majotra) 8.3.2000  
Member (Admin)

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