

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2658 of 1996

New Delhi, this 26th day of April, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastri, Member(A)

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O.S. Yadav

S/o Late Shri Ramji Lal Mahasay

R/o WZ 787 Palam Village

New Delhi.

...Applicant

(By Shri G.D. Bhandari, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House
New Delhi.

3. The Divisional Personnel Officer
Bikaner Division
Northern Railway, DRM Office,
New Delhi.

...Respondents

(By Shri R. L. Dhawan, Advocate)

Order (oral)

By Reddy, J.

The applicant seeks to be promoted to the post of Deputy Chief Controller (DCC for short), with effect from 27.7.1985 or with effect from the date of promotion of his immediate junior, with all consequential benefits. The other reliefs prayed for are consequential.

2. The applicant initially filed OA.No.154/87 for regularisation of his services as Section Controller. The OA was allowed by judgement dated 27.5.1991 directing the respondent that the applicant should be regularised as Section Controller from the date

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he was appointed on ad hoc basis i.e., 1.12.1984. A direction was also given that he was entitled to all consequential benefits. Accordingly the applicant had been regularised in the post of Section Controller with effect from 1.12.1984.

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3. The next post for promotion from the post of Section Controller is to the post of DCC. Since the Tribunal had granted all consequential benefits, the respondents promoted the applicant to the post of DCC with effect from 3.7.1987. The applicant filed CP.248/92 and CP.356/93 in the above OA. In both these CPs the applicant has not made any grievance of the date of his promotion to the post of DCC with effect from 3.7.1987. The only complaint in the CPs was as to the payment of arrears of emoluments in the post of DCC. In the present OA the applicant contends that he ought to have been promoted in the post of DCC from the date of promotion of his junior Shri B.N. Yadav on 4.9.1986.

4. The learned counsel for the respondents however raises a preliminary objection that the OA is barred by res-judicata. It is further contended that Shri B.N. Yadav is not junior to the applicant and hence the applicant was rightly promoted with effect from 3.7.1987.

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5. We have given careful consideration to the pleadings as well as the arguments advanced by the learned counsel on either side.

6. In our view the OA is barred by res judicata. From a perusal of the judgement of the Tribunal in OA.154/87 which was decided on 27.5.1991 the Tribunal had directed not only to regularise the applicant in the post of Section Controller, but also granted all consequential benefits i.e. the consequential promotion to the post of DCC. Accordingly in compliance of the judgement, the respondents have regularised the services of the applicant in ^{the post of} Section Controller as well as promoted him to the post of DCC with effect from 3.7.1987. The applicant was satisfied with the date of his promotion and he has not made any representation that he ought to have been promoted with effect from 4.9.1986. Even in the CPs filed by the applicant, he was only claiming that the arrears of emoluments were not properly paid. Again in OA.356/95 filed by him, it was stated by the learned counsel for the respondents that relief (a) claimed by the applicant in that OA also concerns the relief as to the date of promotion to the post of DCC and the same was rejected on the ground of res judicata.

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7. In view of the above, the applicant is estopped from re-agitating the above issue which had been finally decided in the earlier OA. The OA is therefore barred by res judicata. Even on merits, he has no case.

8. It is contended by the learned counsel for the applicant that Shri B.N.Yadav was his junior. This has been denied in the counter affidavit. Hence the applicant cannot seek the same date of promotion as of Shri B.N.Yadav.

9. The learned counsel for the applicant has drawn our attention to the date of regularisation of Shri Desraj Yadav as SCNL and seeks for promotion with effect from his date of promotion as DCC. Since the facts relating to this contention are not contained in the OA, the respondents have not controverted the above allegation in the counter. In the circumstances, we do not permit this contention to be raised at this stage.

10. The OA is therefore, dismissed. No order as to costs.

Shanta I-
(Mrs. Shanta Shastry)
Member(A)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice Chairman(J)