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IN THE HON. CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

MA 581 / 2002 O A NO. 2988 of 1997

Amended
MEMO OF PARTIES

...

N K SABHARWAL (DEAD) Through legal Heirs :

1. Smt. Sarla Sabharwal
aged about 60 years
widow of late Shri N K Sabharwal;
2. Shri Umesh Sabharwal
aged about 34 years
son of late Shri N K Sabharwal;
both resident of House No.400;
Sector 16, Faridabad (Haryana);
3. Smt. Meena Sethi aged about 35 years
wife of Shri B.K. Sethi, Advocate,
d/o late Shri N K Sabharwal
resident of 700, Msiha Ganj,
near Chhotee Masjid, Sipri Bazar, Jhansi U.P.; and
4. Brijesh Kumar Sabharwal
aged about 27 years
son of late Shri N K Sabharwal,
resident of c/o Shri R.K. Duggal,
1, Radha Puri Extn.-1,
Arjun Nagar, DELHI - 51.

Through : H P Chakravorti, Advocate,
Bar Room, C A T PB,
NEW DELHI.

..... Petitioners

VERSUS

1. Union of India thro' The Chairman,
Railway Board, Principal Secretary to
Government of India, Ministry of Railways,
Rail Bhawan, New Delhi;
2. The General Manager,
Central Railway, Mumbai CST;
3. The Divisional Railway Manager,
Central Railway, Jhansi.

..... Respondents

(H P CHAKRAVORTI)
COUNSEL FOR THE PETITIONER

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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O A No. 2988/97

New Delhi: this the 6th day of March, 2000.

HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).
HON'BLE MR. KULDIP SINGH MEMBER (J)

Narendra Kumar Sabharwal, ^(X)
S/o Late Shri Dr. P. D. Sabharwal,
R/o, Shri R. K. Duggal, 1,
Radhapuri, Extension-I,
Arjun Nagar,
Delhi-51

^(X) See Legal
Representatives on
the Memo of Parties
18/9

.... Applicant.

(By Advocate: Shri H. P. Chakravorty).

Versus

1. Union of India
through
the Chairman,
Railway Board,
The Principal Secretary to
Govt. of India,
Ministry of Railways,
Rail Bhawan,
New Delhi.

2. The General Manager,
Central Railway,
Mumbai CST.

3. The Divisional Railway Manager,
Central Railway,
Jhansi

..... Respondents.

(By Advocate: Shri R. K. Shukla proxy for Smt. S. Sunita Rao).

ORDER

MR. S. R. ADIGE VC(A).

Applicant impugns respondents' order dated 15.6.95 (Annexure-A1) promoting him as O.S. Grade I (Rs. 2000-3200 P.S.) only w.e.f. 15.6.95 and not with effect from 29.1.93.

2. Admittedly applicant, who was working as O.S. Grade II Faridabad (Rs. 1600-2660) was promoted as O.S. Gr. I Jhansi by order dated 29.1.93. It is clear from respondents' letter dated 18.5.93 (Annexure-A-6) that applicant was not relieved to join his new place of posting on promotion owing to non-posting of a substitute. Indeed respondents' letter dated 9.11.94 (Annexure-A7) reveals that even till that date he was not relieved.

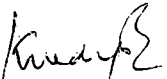
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Eventually, as applicant was to retire on superannuation on 30.9.95, he was promoted as O.S. Gr.I in Faridabad itself against a post which had been transferred there from Mathura vide impugned order dated 15.6.95.

3. Respondents' contention in their reply that applicant was not retained as O.S. Gr.II Faridabad on administrative grounds, is not tenable in view of respondents' own letters dated 18.5.93 and 9.11.94 apart from other correspondence on record. Applicant was available and willing to be promoted as O.S.Gr.I Jhansi vide respondents' order dated 29.1.93 and as respondents retained him on his previous post of OS Gr.II Faridabad in the public interest, owing to absence of a substitute, they cannot deny him the benefit of promotion. w.e.f. 29.1.93.

4. Applicant's counsel has relied upon several rulings including 1993 (SCC L&S) 590; SCSLJ 1996 (2) 130; 1997 (1) ATJ 227; and 1998 (8) SCC 388 which support applicant's contention.

5. Accordingly in the particular facts and circumstances noticed above, this O.A. succeeds and is allowed to the extent that applicant will be deemed to have been promoted as Office Superintendent Grade I w.e.f. 29.1.93 and will be entitled to pay and allowances as O.S. Gr. I w.e.f. 29.1.93 including arrears. Applicant's retiral benefits should also be recalculated and paid to him accordingly with arrears. These directions should be implemented as expeditiously as possible and preferably within four months from the date of receipt of a copy of this order. No costs.


(Kuldeep Singh)
Member (J)


(S. R. Adiga)
Vice Chairman (A)

/GK/