

22

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.388/97

New Delhi, this the 4th day of May, 2000.

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. V.K.MAJOTRA, MEMBER (A)

Sh. Brij Mohan Lal; S/O Sh. Shyam Lal,
aged about 59 years, Ex-Superintendent,
Grade-I in Claims Branch, N.D.C.R.
Building, New Delhi and R/O H.No.750-E,
Lohiya Gali, Babarpur, Shahdara, Delhi -
110 032.

.....Applicant.

(By Advocate: None for applicant)

VERSUS

1. Union of India through General
Manager, Northern Railway, Baroda
House, New Delhi - 110 001.
2. Chief Personnel Officer, Northern
Railway, Baroda House, New Delhi.
3. Chief Commercial Manager-II/Claims,
Northern Railway, N.D.C.R. Building,
State Entry Road, New Delhi.

...Respondents.

(By Advocate: Mr. R.P. Aggarwal)

O R D E R (ORAL)

By Hon'ble Mrs. Lakshmi Swaminathan, M (J):

The applicant has challenged the validity of the orders dated 28.10.96 and 2.9.96 passed by the respondents, rejecting his representation for treating him as promoted to the post of Superintendent (Claims) w.e.f. 24.7.84 with consequential benefits.

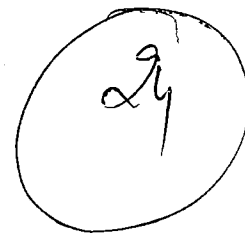
2. The brief relevant facts of the case are that the applicant states that the respondents have totally ignored his claims for promotion to the post of Supdt. (Claims) based on two counts, namely, being the senior-most amongst the Assistant Superintendent (A.S.) (Claims) at the relevant time and also because he belongs to the Scheduled Caste community. According to him, S/Sh. Satya Pal Datta and Shamsheer Singh, are junior to

18.

him and have been promoted to the post of Supdt.(Claims) in the grade of Rs.700-900/- w.e.f. 4.6.85 ignoring his aforesaid position. The respondents have promoted and refixed his pay in the grade of Supdt.(Claims) w.e.f. 6.9.85 which was earlier fixed from 1.2.86, i.e. from the actual date of the promotion. He has submitted that as on 4.6.85, against the total strength of 11 posts of Supdt.(Claims), there was not even a single SC or ST employee who was working against the reserved quota in the 40 point roster. However, he has also referred to two persons, namely, S/Shri Gurdev Singh and Shri Pujan Ram (Shri Shiv Pujan Ram) belonging to Scheduled Caste community but both of them were promoted to the post of Supdt.(Claims) by virtue of their general seniority vide order dated 31.12.84. His contention is that the respondents had adjusted Sh. Gurdev Singh against reserved point 8 of the roster and they had given him promotion w.e.f. 1.1.84. Accordingly, he has submitted that he is entitled to get the promotion w.e.f. 24.7.84 and not from 5.8.85.

3. The respondents have controverted the above averments made by the applicant. We have also heard Sh. R.P.Aggarwal, learned counsel. According to the respondents, neither S/Sh. Sat Pal Datta nor Shamsher Singh were junior to the applicant. Learned counsel has shown us the position of these persons in the copy of the Provisional Seniority List of Head Clerks (Claims) as on 31.5.87 (Annexure A-4). From this document, it is seen that the name of the applicant appears at S1.5 whereas

18:



S/Sh. Datta's and Singh's names appear at Serial Nos.2 & 3 in this list. The applicant has also not placed any other document on record to substantiate his plea that he is senior to these two persons, as alleged by him in the OA, and this position cannot, therefore, be accepted.

4. The respondents have submitted that the applicant was appointed on adhoc basis in the post of A.S. (Claims) w.e.f. 18.12.82. The other two persons, namely, Sh. Datta and Sh. Singh were appointed to officiate in this post from 31.12.82 against the general quota. All these persons were regularised w.e.f. 1.1.84 vide letter dated 30.4.85. They have also submitted that in terms of their letter dated 30.4.85, the applicant did not submit his option for refixation of his pay. After the applicant had been given promotion to the grade of Office Supdt.-II on adhoc basis w.e.f. 18.12.82, the respondents had decided on the cadre restructuring in 1984, as a result of which he was treated as regularised w.e.f. 1.1.84 against upgraded post on being placed on the panel of A.S. (Claims), which was given to him on the basis of modified selection. They have also stated that it was clearly mentioned in the promotion letter dated 18.12.82 that it will not confer upon him any right for such promotion in future and that he will not be eligible for further promotion from the date of his regularisation as A.S. (Claims). They have also denied the allegations of the applicant that they have violated any principles of the reservation policy. According to them, as the other two officers were senior to the applicant, they were promoted to the post of Supdt.

Y2

25

(4)

(Claims) w.e.f. 4.6.85 whereas the applicant was promoted w.e.f. 5.9.85 vide notice dated 19.6.85. The applicant has also filed a rejoinder, more or less, reiterating his claims in the OA.

5. We have carefully considered the pleadings and submissions made by learned counsel for the respondents.

6. The contention of the applicant that the respondents ignored his claims by way of his seniority position as well as the fact that he belonged to the reserved category cannot be accepted on the basis of the records placed in the file. From the provisional seniority list of Head Clerks (Claims) relied upon by the applicant himself, it is seen that his position is below that of S/Shri S.P.Datta and Shamsher Singh. The applicant as well as the other two persons have been regularised w.e.f. 1.1.84 as a result of the restructuring of the cadre. The applicant had been promoted as OS-II (Claims) on ad hoc basis w.e.f. 18.12.82 but was regularised with effect from the same date as the other two persons who were otherwise senior to him in the seniority list. In the facts and circumstances of the case, we are unable to agree with the contentions of the applicant that the respondents have violated his claim which is based on the reservation policy or seniority, because from the documents on record, it is seen that he was junior to S/Sh. Datta and Singh.

13:

7. Taking into account the facts and circumstances of the case, we are, therefore, unable to agree with the contentions of the applicant that his claims have been ignored by the respondents which justifies any interference in the matter. Admittedly, the applicant has been promoted to the grade of Supdt. (Claims) w.e.f. 5.9.85, i.e. from a date which is earlier than what had been previously given to him from 1.2.86. His claim for promotion from the date when S/Sh. Datta and Singh were promoted w.e.f. 4.6.85 is not tenable as they are not junior to him. Hence, this claim is rejected.

8. In the result, the OA fails and is accordingly dismissed. No order as to costs.

V.K. Majotra

(V.K. Majotra)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

/sunil/