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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No.585 of 1994

New Delhi, this the 10th June , 1994.

Hon'ble Mr Justice S.K.Dhaon, Vice Chairman.
Hon'ble Mr B.N.Dhoundiyal, Member(A)

Shri R.C.Gupta,
S/O late Shri Shrikrishna Chandra Gupta
Statistical Branch
Northern Railway Hqs, R/O 10/95 A Vishnu Gali
Vishwash Nagar, Shahdara
New Delhi. Applicant.

(through Mr K.N.R.Pillay, Advocate)

vs.

Union of India
through the General Manager
Northern Railway
Baroda House, New Delhi. Respondents.

(none appeared)

Order

(delivered by Hon'ble Mr B.N.Dhoundiyal)

This O.A. has been filed by Shri R.C.Gupta, a retired Office Superintendent Gd-II, Statistical Branch, Northern Railway against the impugned orders dated 25.2.1994 and 28.2.1994, which denied him the benefit of promotion with effect from 1.3.1993 to the post of Office Superintendent Grade-I under the cadre restructuring Scheme.

2. The applicant was working as Head Clerk in the Statistical Branch of Northern Railway and was due for promotion to the post of Assistant Supdt.(O.S. Grade-II) which was a selection post. In 1989, there were 18 vacancies of Assistant Superintendents. His position was at Sr.No.21 in the Combined Seniority List of Head Clerks. He secured 7th position in the ~~1st~~ ^{2nd} Written Test for promotion as Assistant Superintendent and was told that the viva voce test would be held on 7.2.1990. However, mis-interpreting the interim

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stay orders passed by this Tribunal in Q.A. No. 110/89 in case of G.R. Matta and others vs. Union of India, the process of selection was not finalised and only adhoc appointments were made. The applicant was also promoted as Assistant Superintendent on Adhoc-basis. Thus, even though the applicant had been given ~~ad hoc~~ promotion against a clear vacancy, this was treated as adhoc.

3. On 27.1.1993, the Railway Board issued orders of restructuring of Group C and D Cadres of the Railways. These orders provided that the restructuring of cadres will be with reference to the sanctioned cadre strength on 1.3.1993. It was also clarified that the staff who will be placed in higher grades as a result of implementation of these orders, will draw pay in the higher grades with effect from 1.3.1993. It was further clarified that the employees who retire/resign in between the period from 1.3.93, i.e., the date of effect of this restructuring to the date of actual implementation of these orders, will be eligible for the fixation benefits and arrears under these orders w.e.f. 1.3.1993. However, disregarding these provisions, the respondents issued order dated 25.2.1994 promoting only 7 persons as Assistant Superintendents from 1.3.1993 and promoting the applicant and one another only with effect from 25.2.1994. Thereafter on 28.2.1994 orders were passed promoting 8 Assistant Superintendents, including the applicant as OS Grade I from the date of the order and not from 1.3.1993. The applicant claims that even though the selection initiated in 1989 was not completed he was given adhoc promotion as Assistant Superintendent from 3.12.90 till his empanelment on 25.2.1994 by modified selection procedure. He was 8th in turn

from promotion as OS Grade-I and there were 9 additional vacancies created by restructuring from 1.3.1993. The applicant has superannuated on 28.2.1994 and his pension is being worked out on the basis of his pay of Rs.1900/- as Assistant Superintendent. However, if he had been given the benefit of this promotion from 1.3.1993, the following additional benefits would be available to him:

	As at present Assistant Supdt.	On promotion as Supdt. from 1.3.93
Rate of pay	Rs. 1900/-	2000/-
Pension	Rs. 905/-	970/-
Pension including DA relief.	Rs. 1482/-	1588/-
Commutation	Rs. 37,782/-	Rs. 40,543/-
DORG	Rs. 36,480/-	Rs. 38,400/-
Leave Encashment	Rs. 29,944/-	Rs. 31,520/-

4. A number of opportunities were given to the respondents to file their counter, they failed to do so and despite service of the notices, none appeared on their behalf. On 6.5.1994, this Tribunal passed the following order:

'Admit. Respondents are duly served. No one has cared to put in appearance on behalf of the respondents. Therefore, the question of filing counter affidavit does not arise.'

In the absence of the counter-affidavit ~~filed~~^{by}, we have no option but to accept the averments made in the Q.A. as correct. We, therefore, hold that the applicant is entitled to have the benefit of these promotions w.e.f. 1.3.1993 as envisaged in the Scheme for re-structuring of the cadre.

5. The application is disposed of with the direction to the respondents to comply with the provisions of the Scheme for restructuring the cadre and give promotion to the applicant as Superintendent (O.S.Gd-I) with effect from 1.3.1993. His pay and ^{and} ~~retiral~~ benefits shall be refixed accordingly. These orders shall be complied with expeditiously and preferably within a period of four months from the date of communication.

6. There will be no order as to costs.

B.N. Dhoundiyal
(B.N.Dhoundiyal)
Member (A)

S.K. Dhaon
(S.K.Dhaon)
Vice Chairman

/sds/