

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1553/94

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Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 19th day of September, 1996

Jagdish Chander Sharma
s/o Shri Mohar Singh
r/o Qr. No.13B/3
Punjabi Bhag
Railway Colony
NEW DELHI.

... Applicant

(By Shri V.P.Sharma, Advocate)

Vs.

Union of India through:

1. The General Manager
Northern Railway
Baroda House
NEW DELHI.
2. The Divisional Railway Manager
Northern Railway
Bikaner Dn.
Bikaner.
3. The Loco Foreman
Northern Railway
Loco Shed
Rewari(Haryana).

... Respondents

(By Shri P.S.Mahendru, Advocate)

O R D E R

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant who was considered for promotion from the post of Senior Clerk to that of Headclerk with effect from 25.9.1981 seeks that the same may be considered from a later

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date i.e. with effect from 20.11.1981 so that he can avail of the benefit of one increment and consequential benefits in pay fixation in the higher post of which he was subsequently promoted. The applicant submits that he was working as Senior Clerk on deputation when he was promoted with effect from 20.11.1981. He had sought his promotion from an earlier date i.e. 1.10.1980 but instead, his parent authority pre-poned the promotion from 25.9.1981 when his juniors were promoted. The applicant states that he did not accept this promotion from 25.9.1981 since he was due to get the next increment in the grade of Senior Clerk on 1.11.1981 and under the extant rules, such an option was available to him. To that end, he made a number of representations to give him benefit of one increment as well as the benefit of the special pay of Rs.35/- which he was drawing at that time while fixing his pay in the promotional grade of Headclerk. But while by the impugned order (Annexure A1), the respondents gave him the benefit of the special pay the benefit of one increment was not allowed. He has now approached the Tribunal to direct the respondents to re-fix his pay after treating that he had been promoted as Headclerk with effect from 20.11.1981 and to grant all the consequential benefits.

2. The respondents state in reply that the applicant's promotion in a post of Headclerk had been approved with effect from 25.9.1981 along with other Senior Clerks in the same cadre. They deny that the applicant did not accept this promotion on that date. They further deny that any option was received from the applicant to post-pone his promotion in order to enable him to gain benefit of one extra increment as Senior Clerk. It is further contended

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that the applicant was granted his increment as Headclerk on 1.9.1982 which shows that he had drawn his salary as a Headclerk with effect from 25.9.1981.

3. I have heard the arguments on both sides. The learned counsel for applicant drew my attention to the additional affidavit filed on behalf of the applicant and the copy of the order dated 20.11.1981 at Annexure A7. The letter which is Office Order No.96/81 of 20.11.1981 states in the preamble that the following promotions were approved with effect from 20.11.1981. The applicant's name figured at Sr. No.2. The learned counsel argued that this clearly shows that the promotion was given to the applicant only by that order since he had been shown therein as officiating Senior Clerk. Hence, there should be no question of antedating his promotion to 20.5.1981. The learned counsel also submitted that a large number of representations of which copies are annexed to the application clearly establish that the applicant had been reminding the respondents about the decision on his option.

4. I have given careful thought to the above arguments but find no merit in the application. The applicant himself states that he had made representations dated 21.6.1982 for the grant of promotion from an earlier date namely, 1.10.1980 but instead he was granted promotion with effect from 25.9.1981. The learned counsel for the respondents, Shri P.S.Mahendru rightly pointed out that this was the date on which his colleagues including juniors were promoted and that is why the benefit of antedating the promotion was given to him. Further, I note the point, which is admitted by the applicant himself, that he accepted his increment in the grade of

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Headclerk with effect from 25.9.1981. In para 4.2 of the Original Application, the applicant states that he accepted the same as he stood to suffer no financial loss thereby. The drawal of the increment on a particular date establishes that the concerned officer either physically or notionally had put in one year service in that particular grade. Thus, the very fact of the grant of the increment and its acceptance by the applicant shows that he had completed one year of service in the grade of Headclerk. It is clear therefore, that his promotion was effective from 25.9.1981 as cited by the respondents. The applicant claims that his option for post poning his promotion to the higher grade was not considered by the respondents. Respondents deny that any such option was ever given. The applicant has mentioned no date etc. of the submissions of this option.. Even otherwise, in the light of the fact that he was seeking promotion from an earlier date on his own admission i.e. from 1.10.1980, it seems unlikely that such an option was sought to be exercised by him at the appropriate time.

5. In the light of the above discussion, the application stands dismissed. There shall be no order as to costs.

R. K. AHOOJA
(R.K. AHOOJA)
MEMBER (A)

/rao/