

(11)

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1013/2000

New Delhi this the 1st day of May, 2001

Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Shri George Toppo,
S/o Lt. Sh. Stanislas Toppo,
677 A Khera Khurd,
Delhi-110082.

Working as Chief Telephone Operator,
DRM's Office,
Northern Railway,
New Delhi-110 055.

-Applicant

(By Advocate: Shri M.K. Gupta)

Versus

1. Union of India
Through General Manager,
Northern Railway,
Baroda House,
New Delhi-110001

2. The Divisional Railway Manager,
Northern Railway,
New Delhi-110055.

3. Shri N.C. Saha,
Supdt/TO,

-Respondents

(To be service through Respondent No.2)

(By Advocate: **Shri R.L. Dhawan**)
ORDER (Oral)

Shri V.K. Majotra, Member (A)

On 15.2.2001, on the basis of the statement of the counsel for respondents 1 & 2 that the applicant would be granted the relief of promotion as claimed in the present OA, the OA was stood over to 22.3.2001. The above statement was made by the learned counsel of respondents as the show cause notice had been issued to Respondent No.3, S.C. candidate who had been promoted instead of a S.T. candidate for the purpose of reverting him on the ground that the promotion had been granted to him erroneously.



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2. The respondents have now passed order dated 25.4.2001 which has been presented to us across the bar whereby Respondent No.3 Shri N.C. Saha has been reverted. The applicant has been promoted to the post of Superintendent (TO) fixing his pay at Rs. 6700/- in the grade Rs. 6500-10500 with the conditions that there is no SPE/D&AR/Vig/Confdl. case pending against him and that he has not ^{been} undergoing any punishment of WIT/WIP or suspension and that his promotion would be subject to final outcome of the pending OA. He has also been given an option for fixation of his pay in the lower grade provided the option is received within one month from the date of the promotion order. The learned counsel of the applicant ^{has} drawn our attention to the relief claimed in the OA that the applicant should have been promoted from the ST category as per the law laid down in R.K. Sabharwal's case by promoting him w.e.f. 11.4.2000 when respondent No.3 was wrongly promoted. According to him, the respondents have not promoted the applicant w.e.f. 11.4.2000 as claimed. The learned counsel of the respondents stated that the applicant could not have been promoted from back date and he could not be granted pay as he had not worked on the superior post. He relied on JT 1990 (3) SC 503 Virender Kumar, General Manager, Northern Railway, New Delhi Vs. Avinash Chandra Chadha & Ors.

3. We have carefully gone through the relief clause claimed by the applicant as well as the order dated 15.2.2001 passed by the Tribunal. The order was passed on the understanding given by the respondents'



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counsel that the relief claimed by the applicant is ^{being} accorded to him. The relief claimed is promotion from 11.4.2000 when the respondent No.3 was promoted in place of the applicant. The learned counsel of the respondents stated that if the applicant is aggrieved from the promotion order dated 25.4.2001, he can make a representation to the concerned authorities which can be considered. We are not agreeable with the contention of the learned counsel of the respondents. The order dated 15.2.2001 was passed on the clear understanding that the relief claimed was ^{being} accorded to the applicant. Now that after the show cause notice to Respondent No.3, it is clear that respondent No.3 had been erroneously promoted in place of the applicant and he has been reverted accordingly, the applicant's claim for promotion with effect from the same date when respondent No.3 was promoted i.e. w.e.f. 11.4.2000 is clearly vindicated. The respondents ought to have promoted the applicant w.e.f. 11.4.2000 when respondent No.3 was promoted as Supdt.(TO) in the grade of Rs. 6500-10500. In the fitness of circumstances, the respondents are directed that the applicant be considered for promotion w.e.f. 11.4.2000 on a notional basis when respondent No.3 was promoted erroneously. However, the applicant would not be entitled to back wages as he has not worked on the senior post. The order dated 25.4.2001 be considered by the respondents for revision in accordance with the above terms which action may be taken within a period of one month from today.

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4. The OA is disposed of in terms of above directions. If the applicant remains aggrieved, he would be free to approach the Court afresh. No costs.

S. Raju

(Shanker Raju)
Member (J)

V. K. Majotra

(V.K. Majotra)
Member (A)

cc.