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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO. 1495/2000

New Delhi this the 19th day of December, 2000

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Laxmi Nath S/o Sh Durjan Singh
at present working as Fitter Grade-1
Under I.O.W. Northern Railway
Rewari Applicant
(Advocate : Shri M.K. Gaur)

VERSUS

1. Union of India Through
General Manager, Northern Railway,
Baroda House, New Delhi
2. Divisional Railway Manager,
Bikaner Division,
Northern Railway,
Bikaner (RAJ.) Respondents
(Advocate : Shri B.S. Jain)

O R D E R (ORAL)

Shri S.A.T. Rizvi, M (A) :

The applicant in this OA is aggrieved by the respondents action in promoting his junior (Late Shri Ghanshyam) to the rank of Fitter Grade-II and subsequently to the rank of Fitter Grade-I, on each occasion, before the applicant himself was promoted. The applicant has been promoted to the aforesaid posts respectively from 7.12.1994 and 16.3.1999, whereas the aforesaid junior was promoted to the respective ranks on 6.8.1986 and 18.9.1989.

2. We have heard the learned counsel on either side and perused the material on record.

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3. The learned counsel for the respondents has challenged the OA on the ground of limitation stating

that since the grievance in this matter arose first on 6.8.1986 and thereafter again on 18.9.1989, the applicant should have approached this Tribunal within the limitation prescribed under Section 21 of AT Act 1985, which he has not done and, therefore, filing of the present OA is barred by limitation. The learned counsel appearing for the applicant on the other hand has brought to our notice the judgement of the lower Civil Court dated 18.3.1983 in a Civil Suit filed by him in which the suit was decreed in his favour by declaring that the applicant had acquired the status of a temporary railway servant on the post of Fitter with effect from 22.2.1968 and that he was entitled to get all the facilities of the said post from that date together with the consequential relief of injunction restraining the defendants from reverting the plaintiff (applicant in this case) to the post of Gangman. Following this the applicant moved for the execution of the aforesaid decree in 1984 and the matter was decided by the learned Court on 13.11.1998 paving the way for filing the present OA. Meanwhile, the applicant had also filed a representation on 26.2.1999, which remains without any action on the part of the respondents. In these circumstances, the plea advanced by the learned counsel for the respondents with regard to limitation does not hold ground and is rejected. The next plea advanced by the learned counsel for the respondents is with regard to jurisdiction which also does not hold



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ground as the transfer petition filed by the applicant too has been decided on 4.8.2000 in his favour. The same is also rejected.

4. The learned counsel for the respondents has failed to convince us as to why the seniority list prepared by the Respondents themselves placed at Annexure A-5 should not be relied upon. His argument that while the applicant was a temporary employee in terms of the aforesaid order of the Court, the other employee, namely, Late Shri Ghanshyam was a regular employee and, therefore, he (the latter) rightly deserved to be placed higher than the applicant in the seniority list is not supported by relevant rules for fixation of seniority of Railway employees. We cannot, therefore, accept the same and thus inevitably we have to place reliance on the seniority list placed at Annexure A-5 in which the applicant has been placed higher than late Shri Ghanshyam.

5. With the aforesaid conclusion in regard to the seniority, we have no hesitation in holding that the applicant should have been promoted as Fitter Grade-II with effect from 6.8.1986 and as Fitter Grade-I with effect from 18.9.1989, the dates respectively from which his junior was promoted to the aforesaid ranks. We order accordingly. The applicant will be entitled to all the consequential benefits arising from his promotion in the aforesated terms. Since the applicant is going to super-annuate in March, 2001, we direct the respondents to act expeditiously in the matter and

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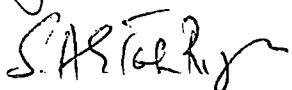
grant all the benefits to the applicant arising from this order within a period of two months from the date of receipt of a copy of this Order.

6. No costs.



(ASHOK AGARWAL)

CHAIRMAN



S.A.T. RIZVI

MEMBER (A)

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