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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2002/2000

New Delhi, this the 9th day of July, 2001

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. M.P. SINGH, MEMBER (A)

Shri Jai Saran Gupta
s/o Shri Sant Prasad Gupta
Junior Engineer (I)
Carriage & Wagon
Northern Railway
Delhi.

... Applicant

(By Advocate: Mrs. Meenu Mainee)

V E R S U S

Union of India : Through

1. The General Manager
Northern Railway
Baroda House,
New Delhi.
2. The Divisional Railway Manager
Northern Railway
State Entry Road,
New Delhi.


... Respondents

(By Advocate: Shri R.P. Aggarwal)

O R D E R (ORAL)

By M.P. SINGH, MEMBER (A) :

The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 seeking directions to the respondents to assign him proper seniority in the C&W Wing of the Mechanical Department in accordance with the date of his appointment in the grade of Rs.5500-9000/- and consider him for promotion in the grade of Section Engineer in the pay scale of Rs.6500-10500/- from the date on which his juniors had been promoted with all consequential benefits.



2. Brief facts of the case are that the applicant was appointed as Apprentice Chargeman in the year 1980 and was under training for two years. On completion of apprenticeship in the year 1982, he was appointed as Chargeman Gr. B in the pay scale of Rs.425-700/- (pre-revised). Thereafter he was promoted as Chargeman 'A' in the pay scale of Rs.550-750/- (pre-revised) in the year 1986 and was posted at Loco Shed, Zind. In 1990, the applicant, while working as Chargeman 'A', was transferred under Loco Foreman Delhi. After the period of closure of Loco Shed, the applicant was transferred to Carriage and Wagon Wing of the Mechanical Deptt., to work as Head Train Examiner after prescribed training. He was asked to undergo training by order dated 9.5.1995 (Annexure A-2). According to the applicant, he was not relieved by the Divisional Mechanical Engineer (Optg.), New Delhi to join C&W Wing on the ground that there was no other supervisory officer available to look after and accompany the Accident Relief Train as well as 140 Ton B.D. Crane, vide letter dated 8.10.1997 (Annexure A-3). While working under D.M.E. (Optg.) although transferred to C&W Wing the applicant was not promoted while his juniors had been promoted in the grade of Rs.2000-3200/- (pre-revised). The applicant submitted a representation in this behalf on 14.7.1998 to D.R.M. Northern Railway and thereafter he again submitted a representation on 26.10.1998. Ultimately, the D.P.O. New Delhi directed the D.M.E. (Optg.) to spare the applicant to report to Sr. D.M.E. C&W, New Delhi on administrative ground and then the applicant was spared by the D.M.E. (Optg.) on 12.1.1999 and he assumed his duties under Chief Work

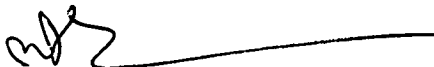
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Superintendent Delhi. Soon after his resumption in Carriage & Wagon Department, the applicant requested the Respondent No.2 to place his name in the seniority list to assign him proper seniority from the date he was transferred from Loco Shed to C&W Wing on administrative ground. His representation was rejected by the order dated 30.6.2000 (Annexure A-1).

3. The respondents in their reply have stated that the orders to proceed for training conversion course was issued on 9.5.1995 and it was only in reply to the reminder in the control message on 7.10.1997 (Annexure R-2) the Loco Foreman has expressed his inability to spare the applicant for said training. Thus, it is substantiated that the applicant did not represent against his not being spared for training by Loco Foreman as per orders dated 9.5.1995 and maintained stone silence on the issue as he was himself reluctant to proceed for the same training. This application dated 1.7.1999 was received and examined in detail. He was assigned seniority vide letter dated 12.10.1999 keeping in view his administrative ground transfer, length of service rendered in Grade 5500-9000/- in Loco Deptt. In view of the aforesaid reasons, the applicant is not entitled for any relief.

4. Heard both the rival contesting parties and perused the records.

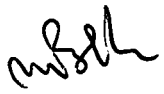
5. Admitted provision is that the applicant was transferred vide order dated 9.5.1995 but he was not




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spared by the Divisional Mechanical Engineer (Optg.) on the ground that there was no other supervisory officer in the department. Therefore, the applicant cannot be held responsible for not completing the training as asked for vide order dated 9.5.1995. It was the respondents, who did not spare him to undergo training and, therefore, in our respectful submission, the seniority and promotion were due to him from the date the orders were issued i.e. 9.5.1995 keeping in view the facts that the applicant was not spared by the respondents and on this ground he cannot be denied the benefits of the seniority and promotion as given to the juniors.

6. In view of the facts and circumstances, the OA is allowed and the respondents are directed to assign seniority and grant due promotion to the applicant from the date his immediate junior was promoted with all consequential benefits within a period of three months from the date of receipt of a copy of this order. No costs.


(M.P.SINGH)
MEMBER (A)


(ASHOK AGARWAL)
CHAIRMAN

/sns/