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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

RA No. 367 of 1994 in CP 100 of 1994 in
Q.A. No. 1050 of 1993

New Delhi, this the 21st day of November, 1994.

HON'BLE MR JUSTICE S.K.DHAON, VICE CHAIRMAN
HON'BLE MR B.N.DHUNDIYAL, MEMBER(A)

Shri K.S.Chaubey
S/O Shri Bal Dev Chaubey
R/O K-290 Sector 9,
Vijay Nagar,
Ghaziabad.

... Petitioner.

versus

Shri Masihuzzaman
General Manager,
Northern Railway,
Headquarters, Baroda House,
New Delhi.

... Respondent.

ORDER (By circulation)

This review application has been filed on behalf of Shri K.S.Chaubey, applicant in Q.A.No. 1050 of 1993 seeking recall of our order dated 16-08-1994 in CP No. 100 of 1994. Relying on an affidavit filed by the respondents, the Tribunal reached the conclusion that the judgment dated 21.09.1993 had been substantially complied with. The contempt petition was, therefore, dismissed.

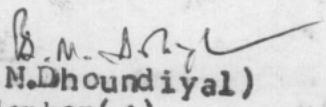
2. The review applicant contends that he had already been promoted on 31.1.1994. He filed a contempt petition on 31.03.1994 as according to the judgment dated 21.09.1993 he was to be promoted in the slot vacated by promotion of Shri Sita Ram ^{the} as Head Clerk who vacated ~~same~~ w.e.f. 1.3.1993. Our order dated 21.09.1993 in the main OA 1050/93 noted the submissions of the respondents that in the vacancy arising out of Sita Ram Gupta's promotion the case of the applicant will be considered.

Accordingly, a direction was issued to the

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respondents to consider the case of the applicant for promotion as Senior Clerk in the vacancy arising out of the promotion of Shri S.R.Gupta, as Head Clerk. This Tribunal accepted the explanation offered by the respondents in the counter to the C.P. that Shri Sita Ram Gupta was promoted as Head Clerk w.e.f. 1.3.1993 but no vacancy was caused in grade of Rs.1200-2040 as the same was adjusted against re-structuring of the cadre and the post of Senior Clerk in the Budget Branch was curtailed from 5 posts to 4 posts. The next vacancy arose on 31.1.1994 with the transfer of one Shri Mohan Singh, Senior Clerk to his parent department and Shri Choubey was immediately promoted against this vacancy. This Court could only direct the respondents to consider the promotion of the applicant against an existing post and if the post itself was abolished it could not be said that their inability to promote him against that post was wilful disobedience of the directions of this Tribunal. The petitioner had raised a new point about his seniority being at Serial No.4 but he has not clarified as to which of his juniors had been promoted from an earlier date. This new point cannot be adjudicated upon in a review petition.

2. In view of the aforesaid considerations, the review petition fails and is dismissed.


(B.M.Dhondiyal)
Member(A)


(S.K.Dhaon)
Vice Chairman.