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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1626/1989. DATE OF DECISION: 1-10-1991.

Shri V.P. Mudgil APPLICANT.(Through Shri
B.S. Mainee, counsel).
V/s.

Union of India & Ors. RESPONDENTS.(Through Shri
O.P. Kshtriya, counsel).

CORAM: Hon'ble Shri G. Sreedharan Nair, V.C. (J).
Hon'ble Shri P.C. Jain, Member (A).

G. SREEDHARAN NAIR, V.C. JUDGMENT

The applicant was promoted as I.O.W. Grade III in the year 1977 and was posted to perform his duties in the Northern Railway Headquarters Office at Baroda House, New Delhi. On 28-3-1984, nine I.O.Ws Grade III were promoted on ad-hoc basis to the cadre of I.O.W. Grade II. It is alleged that out of the nine, eight were junior to the applicant. The grievance of the applicant is that the post of I.O.W. Grade II being a non-selection post, even for ad-hoc promotion, the applicant should have been considered before promoting his juniors. It is stated that pursuant to the representations submitted by the applicant, he was promoted as I.O.W. Grade II on ad-hoc basis with effect from 16.5.85, but his pay had not been stepped up at par with that of his juniors. Since the request of the applicant in this respect was turned down by the communication contained in the letter dated 7.9.1988, he has filed this application to quash the order and to direct the respondents to promote the applicant to the cadre of I.O.W. Grade II with effect from 29.3.1984 and for fixation of his pay and for payment of arrears.

2. In the reply filed by the respondents, it is stated that the applicant could not be promoted when his juniors were promoted, as there was no post of I.O.W. Grade II at Baroda House. It is pointed out that the ad-hoc arrangements were done at the local stations where the vacancies arose.

It is admitted that a post was created at Baroda House with effect from 16.5.1985 against which the applicant was promoted. It is contended that the applicant is not entitled to the stepping up of pay or the other reliefs claimed in the application.

3. Admittedly, the post of I.O.W. Grade II is a non-selection post filled on the basis of seniority-cum-suitability. The applicant has relied upon the instructions contained in the letters of the Railway Board dated 31.10.1972 and 23.2.1974 laying down that normally empanelled employees should be appointed against the posts and that the senior-most persons available in the seniority unit should normally be promoted in the ad-hoc arrangement unless the authority ordering promotion considers him unsuitable. The allegation of the applicant^{is} that of the nine persons promoted on ad-hoc basis to the cadre of I.O.W. Grade II on 28.3.1984, eight are junior to him. That all of them belong to the same seniority unit is not in dispute. The explanation of the respondents that there was no corresponding post at Baroda House Headquarters Office where the applicant was working in an equivalent post of I.O.W. Grade III cannot be accepted in support of the non-consideration of the applicant for ad-hoc promotion, either on the basis of the instructions contained in the letters of the Railway Board or judged by standards of fairness and equality of treatment. Evidently, based on the complaint of the applicant, a post was created at the Headquarters Office itself, to which the applicant was promoted on ad-hoc basis with effect from 16.5.1985. It is significant to point out that of the employees promoted in the year 1984, six were stationed in Delhi area itself.

4. It is on record that in the year 1989, the applicant has been promoted on ad-hoc basis to the cadre of I.O.W. Grade I by the order dated 7.7.1989 along with his immediate junior, who was earlier promoted on ad-hoc basis to the cadre of I.O.W.

Grade II. In view of our findings that the denial of promotion to the applicant to the cadre of I.O.W. Grade II with effect from 29.3.1984 was illegal, the applicant has to be treated as having been promoted notionally to that cadre from 29.3.1984 and his pay has to be fixed accordingly. His seniority both in the cadre of I.O.W. Grade II and in the cadre of I.O.W. Grade I has also to be reckoned on that basis. We direct the respondents to do so within a period of three months from the receipt of copy of this order. However, the relief claimed by the applicant for arrears of pay in the cadre of I.O.W. Grade II during the period from 29.3.84 to 16.5.85 is not being allowed in the circumstances of the case.

5. The application is disposed of as above.

(P.C. JAIN)
Member(A)

(G. SREEDHARAN NAIR)
Vice Chairman (J)

1.10.1991.