

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2166/89

New Delhi this the 17th Day of May, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)
Smt. Lakshmi Swaminathan, Member (J)

Nathoo Ram s/o Sh. Shankar Lal,
c/o Sh. Moti Lal Meena,
RZF-714/7, Raj Nagar,
Palam Colony, New Delhi.

...Applicant

(By Advocate Sh. V.P. Sharma)

Versus

1. Union of India through the
General Manager, Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Bikaner Division,
Bikaner.

...Respondents

(By Advocate Sh. P.S. Mahendru)

ORDER(ORAL)

Mr. N.V. Krishnan:-

The applicant, a scheduled tribe official claims promotion to the post of Loco Foreman on the higher grade of Rs.2375-3500 w.e.f. 1.1.86. The brief facts on which this claim is based are as follows.

2. The applicant was an Assistant Loco Foreman in the grade of Rs.550-750 from 1.6.83. A restructuring of the cadre took place in the Railways admittedly w.e.f. 1.1.84. The applicant has filed as Annexure-A-4 the instructions issued by the Central Railway in this regard of 26.12.84, creating the posts in the various categories w.e.f. 1.1.84. It is stated that by the Annexure A-5 order of the second respondent dated 1.1.88 the applicant was promoted as Loco Foreman w.e.f. 1.1.84 on the lower grade of Rs.700-900. After the revision of the pay scale from 1.1.186 this pay scale was converted to Rs.2000-3500. The applicant's case is that he was simultaneously entitled to further promotion to the next higher grade of Rs.840-1040 as

Loco Foreman. He made representation in this behalf. This has been finally turned down by the impugned Annexure A-1 letter of the first respondent, i.e., General Manager, Northern Railway to the second respondent D.R.M. Bikaner Division intimating that the representation of the applicant for the next higher grade, i.e., Rs.840-1040 now revised to Rs.2375-3500 was considered but was not acceded to, as he has not completed two years' service in the lower grade, i.e. Rs.2000-3200. Hence, the prayer that the applicant be given higher grade of Rs.2375-3500 from 1.1.86, i.e., after two years of service in the lower grade of Rs.700-900 (pre-revised scale) to which he was appointed from 1.1.84 retrospectively by the Annexure A-5 order issued on 1.1.88.

3. The respondents have filed a reply contending that the post of Loco Foreman is a safety category post and the promotion to the next higher grade requires actual two years' service in the lower grade. As the applicant did not have such service, his case has rightly been rejected.

4. When the case came up before us for final hearing, Sh. V.P. Sharma, learned counsel for the applicant submitted that the respondents could have effected the promotion much earlier than 1.1.88 and in any case, there is a provision for relaxation of two years' service in the memorandum dated 26.12.85 (Annexure A-18) which reduces this period to one year, subject to the conditions mentioned therein.

5. Sh. P.S. Mahendru, learned counsel for the respondents, however, contended that as the promotion was effected only from 1.1.88, though with retrospective effect, the applicant would have been due for for consi-

deration only on 1.1.90. 1 Thus, the question for consideration is in a very narrow compass.

6. We have carefully considered the rival contentions. We are of the view that, as, admittedly, the restructuring scheme came into force w.e.f. 1.1.84, it was really meant to give accelerated promotion to the employees on the basis of that scheme. That ought to have been done within a reasonable time. If the promotion orders were issued as late as 1.1.88 (Annexure A-5) in the case of the applicant, we are of the view that this should not result in depriving him of the benefit of 1 promotion which he would have otherwise got had this order been issued somewhat earlier.

7. The learned counsel for the respondents submitted that this could not be done because the matter was sub-judice before the Jodhpur Bench of the Tribunal. Even if this argument is taken at its face value, we notice that the judgement was rendered by the Jodhpur Bench on 26.9.86 (Annexure A-16). If timely action had been taken even thereafter it would have been possible for the applicant to have rendered actual service as Loco Foreman in the lower grade for two years before claiming promotion.

8. In the circumstances, we are of the view that the interest of justice requires some relief to be given to the applicant. The respondents have a valid point that the applicant did not render actual service of two years. That consideration is now no more relevant, as the applicant has since retired on 31.7.89. In the circumstance, we are of the view that this O.A. can

be disposed of with suitable direction to the respondents. Accordingly, we direct the respondents to consider the case of the applicant for promotion as on 1.1.89, giving him the benefit of one year relaxation for eligibility for consideration. If he is found fit for promotion as on that date he shall be granted benefit of this promotion, only for the purpose of refixing his pensionary benefits w.e.f. 1.8.89.

9. The O.A. is disposed of with the above directions, which shall be complied with within a period of three months from the date of receipt of this order. No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)

Member (J)

N.V. Krishnan
(N.V. Krishnan)
Vice-Chairman

'Sanju'