

In the Central Administrative Tribunal.
Principal Bench New Delhi.

Date of decision 18.7.89.

Regn. No. O.A. 209/89.

Shri Vijay Mohan Issar ... Applicant

vs.

Union of India & Ors. ... Respondents.

For the applicant: In person.

For the respondents: Shri Inderjit Sharma,
Advocate.

CORAM:

Hon'ble Mr. P.Srinivasan, Member (A)

Hon'ble Mr. T.S. Oberoi, Member (J)

JUDGMENT (oral)

(delivered by Hon'ble Shri P.Srinivasan, Member).

This application has been listed before us today for directions. The applicant appears in person and prays for adjournment as his counsel is not available. Shri Inderjit Sharma, learned counsel appears for the respondents. On going through the records and after hearing the applicant and Shri Inderjit Sharma, counsel for the respondents, we are of the view that this application can be disposed of now. We, therefore, refuse the applicant's prayer for adjournment. The applicant, who was working as an Assistant Station Master at Sarai Rohilla was given what is called 'status promotion' as Station Master and posted to station Jagtewala by order dated 22.9.1987. The applicant declined the status promotion and the Railway authorities accepted his refusal on 17.11.1987 and retained him at Sarai Rohilla in the post of Assistant Station Master. After the expiry of one year, the respondents-Railways again transferred the applicant to Diplana station at the same time giving him status promotion as Station Master. The applicant wrote to the authorities on 10.11.1988 that he could not join at Diplana Station for personal reasons

and that he was not interested in status promotion as Station Master. This time, the Railway administration was not prepared to accept his refusal of status promotion and transfer. By order dated 8.12.1988, (Annexure 'C' to the application), the Railway authorities informed the applicant that his refusal of status promotion for the second time was not acceptable and directed him to promptly proceed to Diplana to which station he had been transferred. The applicant is aggrieved with this order.

2. Our attention has been drawn in this connection to a judgment of a Bench of this Tribunal in OA 1273 of 1988,

Kishan Chand Sharma Vs. Union of India & Anr., rendered on 10.10.1988 in which on similar facts, this Tribunal quashed the order of the Railway authorities declining to accept the refusal of status promotion for the second time by the applicant therein. The applicant in that case was also an Assistant Station Master who declined status promotion as Station Master for the second time. Though he admits that the facts of the present case are similar to those in Kishan Chand Sharma's case, Shri Sharma submits that this application should be dismissed because under the Rules, a second refusal of promotion is not acceptable. We are unable to agree with Shri Sharma. For the reasons stated in the order of this Tribunal in Kishan Chand Sharma's case (supra), we hold that the applicant was entitled to refuse status promotion for the second time and as a result, we quash the order dated 8.12.1988. As held in that order, this does not in any way affect the right of the respondents to transfer the applicant in the same status to any other place if they so deem fit.

3. The application is disposed of on the above terms leaving the parties to bear their own costs.

[Signature]
(T.S. Oberoi)
Member (J)

[Signature]
(P.Srinivasan)
Member (A)