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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

O.A. 82/89.

Eighth day of February, 1994.

SHRI J.P.SHARMA, MEMBER(J).

SHRI B.K.SINGH, MEMBER(A).

O.P. Maheshwari S/o Lt. Shri Ganga Charan,  
Resident of I/2157,  
Ramnagar East, Mandoli Road,  
Shahdara, Delhi-110032,  
Presently working as :  
Confidential Assistant in S&T/Con. Br.,  
Northern Railway Hdqrs. Office,  
Baroda House, New Delhi.

...Applicant

By advocate : None.

VERSUS

1. Union of India,  
service to be effected through:  
Chief Secretary, Ministry of Rlys.,  
(Railway Board), Govt. of India,  
Rail Bhawan, New Delhi-110001.
2. The General Manager, Northern Railway,  
Hdqrs. Office, Baroda House,  
New Delhi-110001.
3. The Chief Personnel Officer,  
Northern Railway, Hdqrs. Office,  
Baroda House, New Delhi-110001.
4. The Sr. Personnel Officer/Hdqrs.,  
Northern Railway Hdqrs. Office,  
Baroda House, New Delhi-110001. ...Respondents

By advocate : None.

ORDER (ORAL)

SHRI J.P.SHARMA:

The applicant was working as Confidential Clerk in S&T/Construction Branch, Northern Railway Headquarters Office, New Delhi. He has assailed the order dated 2/3-1-89 regarding selection for the post of Confidential Assistant grade Rs.2000-3200 and the Railway Board's letter dated 19-2-87 on the subject of recommendations of the Railway Reforms Committee laying

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down certain guidelines regarding minimum experience for each promotion and zone of consideration for promotion.

2. The reliefs sought by the applicant are that the respondents should not proceed further with the selection issued by the impugned letter dated 2/3-1-89; a further direction to revert back all the downgraded posts of Confidential Assistants grade ? .2000-3200 from grade Rs.1600-2660 to its original grade retrospectively w.e.f. 1-6-1987 and another direction to the respondents to place the name of the applicant on the panel of Confidential Assistants announced by their letter dated 27-5-87 by enhancing the provisional panel and in the alternative to treat the applicant to have been promoted in the grade Rs.2000-3200 w.e.f. 1-7-87; another direction to assign the correct seniority in the grade Rs.2000-3200 w.e.f. 1-7-87; to pay difference of pay and allowances wef 1-7-87 onwards between grade Rs.1600-2660 and grade Rs.2000-3200 with all consequential benefits.

3. The case has been on Board but none appears for the applicant. None is present also on behalf of the respondents. This is an old case, so we proposed to dispose of the case on merits.

4. The grievance of the applicant is that his promotion has been withheld illegally and arbitrarily. Firstly, the name of the applicant was not placed on the panel declared on 27-5-87 and secondly when some of the empanelled staff members did not join, the

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resultant vacancies caused on account of non-reporting of Confidential Assistants, then further promotion of Confidential Assistants down to the line including that of applicant was not done. He has also the grievance that the letter dated 2/3-1-89 and the Railway Board's letter dated 19-2-87 are arbitrary and illegal.

5. The respondents in their reply contested the application stating that a panel of 80 persons was announced on 27-5-87 on the basis of the then existing vacancies 83, anticipated vacancies 7 and 20% of the anticipated vacancies, i.e., 2, in total 92. Since records of service of certain officials were not available, so subsequently a panel of 5 more persons was announced on 25-9-1987 and one person on 23-2-88. Five posts reserved for SC/St officials were got de-reserved and panel of another five persons was announced on 29-4-88. Thus, in all, the panel of 89 was issued. The applicant was far junior in the seniority list could not find place in the panel. Those staff members who were empanelled and did not join at their new stations of posting were given another chance to report for duty informing them that their refusal to join at the place of posting will debar them for promotion for one year w.e.f.1-8-87. Since such staff members did not join, so their promotion was deferred and they were again promoted as Confidential Assistants vide letter dated 11-8-1988 (annexure R-4). Since there was a constant dispute regarding posting of these cases of deferred promotion till 11-8-88, no ad hoc appointments against these

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posts were made. In view of this explanation furnished by the respondents, we don't find that the applicant was in any way eligible to be empanelled. The applicant of course in the rejoinder has challenged the number of vacancies and given that the number of vacancies existing must be hundred, if anticipated number of vacancies are taken into account. However, the official version cannot be kept aside unless necessary documents challenging the number of vacancies at the relevant time when steps were taken for the selection is not filed or is not placed on record as well as not pressed at the time of hearing, i.e., today. The applicant in the rejoinder has not stated that he being senior has been ignored. The stand of the respondents has been that the applicant was too junior to be empanelled in 1987.

6. The contention of the respondents that no ad hoc promotions were made during this period has also been assailed by filing annexures X-1, X-2 and X-3 to the rejoinder. Annexure X-1 is of 1986; annexure X-2 is of May 1987 and annexure X-3 is the result of the selection held in May, 1987. The grievance of the applicant has <sup>arisen</sup> ~~the reason~~ on account of selection of 2/3-1-89. The respondents along with the counter have annexed the provisional panel dated 2-6-87 of 80 persons. X-3 corresponds to annexure R-1 of the counter inasmuch as this is a posting order issued by the respondents headquarter on 2-6-87. Thus, the applicant could not make out a case that any junior to the applicant has been empanelled in 1987. In fact, the respondents have also annexed with the counter the

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list of Confidential Assistants who appeared for selection on 4/5-5-87 and the name of the applicant appears at serial no.115. While going through this list, we find that the last person in the panel Shri K. Ravi is at serial no.98 and the last person of general category Shri Prabhakaran is at serial no.85. The applicant, therefore, cannot have a grievance of having been not empanelled.

7. The contention of the applicant that there were about hundred posts of Confidential Assistants in the provisional panel which should have been increased and that has not been done. We don't find any justification when the respondents have calculated the number of vacancies and given a detailed calculation in the counter filed by them.

8. The applicant has also taken the stand that certain posts were downgraded in order to deprive the applicant the chances of promotion but the respondents have clearly in their reply stated that this has been done in view of the instructions of the Railway Board since the employees were not available with requisite experience.


9. In view of the above facts and circumstances, we don't find any logical and reasonable basis for interference in the process of selection commenced by letter dated 2/3-1-87 on the basis of recommendations of Railway Reforms Committee which were accepted by the letter dated 19-2-87.

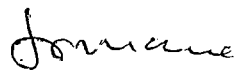
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10. The challenge to the circular of 19-2-87 is misplaced and that being a policy matter is not open to challenge and the relief in that regard also cannot be granted.

11. The other reliefs claimed by the applicant are consequential and since the main reliefs are denied, so the applicant is not entitled to any relief and application is dismissed being devoid of merits, leaving the parties to bear their own costs.

  
( B.K.SINGH )  
MEMBER(A)

  
( J.P.SHARMA )  
MEMBER(J)

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