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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 2063/1988. DATE OF DECISION: 15-5-1991.

Shri S.K. Sharma APPLICANT.

V/s.

Union of India & Another RESPONDENTS.

CORAM: Hon'ble Mr. Justice Ram Pal Singh, V.C. (J).
Hon'ble Mr. P.C. Jain, Member (A).

Shri B.S. Maine, counsel for the Applicant.
Shri A.P. Khare, counsel for the Respondents.

1. Whether Reports of local papers may be allowed to see the judgment? Yes.
2. To be referred to the Reporter or not? Yes.
3. Whether their Lordships wish to see the fair copy of the judgment? No.
4. Whether to be circulated to all Benches of the Tribunal? No.

(Signature)
(P.C. JAIN)
Member (A)

(Signature)
(RAM PAL SINGH)
Vice-Chairman (J)

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Shri B.S. Mainee, counsel for the Applicant.
Shri A.P. Khare, counsel for the Respondents.

(Judgment of the Bench delivered by
Hon'ble Mr. P.C. Jain, Member (A)).

JUDGEMENT

After being selected by the Railway Service Commission as Apprentice Signal Inspector Grade III and after completion of his apprenticeship, the applicant was posted as Signal Inspector Grade III in the grade of Rs. 425-700 in the Delhi Division of the Northern Railway, vide order dated 5.12.1977 (Annexure A-3). He was later on posted in the Signal and Telecommunication Training Centre at Ghaziabad and later on transferred to Moradabad Division on 4.6.1980. On 1.5.1984, the Railway Board issued instructions on cadre review and restructuring of Group 'C' cadres, as a result of which the percentage of posts at various levels in Group 'C' of Signal Inspectors was changed. Promotions in pursuance of restructuring were to be given effect to from 1.1.1984 and arrears were also paid (Annexure A-2). At that time, all the posts in Grade I (Rs. 700-900), Grade II (Rs. 550-750) and Grade III (Rs. 425-700) of Signal Inspectors were controlled by the Headquarters Office of the Northern Railway and promotions from Grade III to Grade II were made on the basis of inter-divisional seniority of Northern Railway on the basis of criteria prescribed for selection. However, vide orders dated 1.9.1984 (Annexure A-4),

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the post of Signal Inspector (Rs.550-750) was decentralised and was to be controlled by the respective Divisional Railway Managers with immediate effect for all purposes of promotion / confirmation & transfers etc. The staff working in the respective Divisions were to continue to work there and maintain their lien / seniority on those Divisions. It was also provided in those orders that the posts of Signal Inspector in the above grade against the vacancies caused as a result of the restructuring of the cadre and existing vacancies as on 1.1.1984 may be taken by the Divisional Railway Manager by open fresh roster registers. The grievance of the applicant in this application under Section 19 of the Administrative Tribunals Act, 1985 is that promotions to the post of Signal Inspector in the Grade of Rs.550-750 against the vacancies as existed on 1.1.1984 as also those which were created in the above Grade as a result of restructuring of the cadre should have been filled on the basis of the Inter-divisional seniority rather than on the basis of the Divisional Seniority. He has, therefore, prayed for a direction to the respondents to fill up the restructured / upgraded / resultant posts with effect from 1.1.1984 in accordance with the combined seniority list, which was prevailing at that time when the vacancies had arisen.

2. On notice after admission, Shri Akhilesh Kumar, a departmental representative appeared for the respondents on 4.1.1989. On the next date, i.e., 24.1.1989, Shri A.K. Khare, Advocate, appeared for the respondents and prayed for, and was allowed, two weeks' further time for filing the reply. The counter was not filed within the time allowed and on 5.6.1989, counsel for the respondents was allowed further two weeks' time. Thereafter, neither anyone appeared for the respondents, nor counter has been filed.

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3. We have perused the material on record and have also heard the learned counsel for the applicant.

4. The short point involved in this case is whether for filling up the vacant posts of Signal Inspector in Grade II (Rs.550-750) and additional posts in this Grade created as a result of restructuring, could be filled up with effect from 1.1.1984 on the basis of Divisional Seniority as a result of decentralisation of the cadre vide orders dated 1.9.1984. The answer to this is without hesitation in the negative. The established proposition of law is that vacancies in any cadre have to be filled up according to the rules in force when the vacancies arose (Y.V. Rangaiah and Others Vs. J. Sreenivasa Rao and Others - (1983) 3 Supreme Court Cases 284). The relevant observations of their Lordships of the Supreme Court are reproduced below: -

"We have not the slightest doubt that the posts which fell vacant prior to the amended rules would be governed by the old rules and not by the new rules."

The same was reiterated in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Office Memo No.28034/5/86-Estt.(D), dated November 17, 1986 (Annexure A-4A).

5. The applicant has also pleaded that as a result of the action of the respondents in making promotions on the basis of Divisional seniority in pursuance of decentralisation his juniors were given promotion and he was left behind. He has cited the names of Shri R.K. Sood and Shri Girja Raman in this connection. He has also filed the Provincial Seniority List of Signal Inspectors Grade III (Rs.425-700), which was issued in July, 1984 (Annexure A-6) in support of his contention in this regard. He has also stated that while working in Moradabad Division, he was detailed on duty to Zimbabwe through Rail India & Technical Economic Services

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(RITES) where he remained for about two years and came back in May 1987. He, therefore, did not know that his juniors who were working in other Divisions had been promoted to the Grade of Rs.550-750 by virtue of their seniority position in their respective Division. It is further stated that on his return, he was posted to Signal & Telecommunication Training School, Ghaziabad and while working there, he came to know of the same in December, 1987. He immediately made a representation dated 21.1.1988 (Annexure A-5). When no reply was received, he submitted a reminder on 8.5.1988 (Annexure A-7), but he has neither been given any relief, nor any reply to his representations. He filed this O.A. on 24.10.1988, which was admitted vide order dated 28.10.1988.

6. In view of the position of law as discussed above, O.A. is disposed of in terms of the direction that the applicant's case for promotion to the post of Signal Inspector Grade II in the Grade of Rs.550-750 with effect from 1.1.1984 shall be considered by the respondents on the basis of the Inter-divisional seniority for the entire Northern Railway for the post of Signal Inspector Grade III in the grade of Rs.450-700 and if he is found fit on the basis of criteria of selection as per the Railway Board's instructions in their letter dated 1.5.1984, he shall be given promotion to the post of Signal Inspector Grade II in the then prevailing Grade of Rs.550-750 with effect from that date. He shall also be entitled, if so selected, to the consequential relief of seniority in the Grade of Rs.550-750 and all arrears of pay in the above Grade from the date of promotion till the date of payment. These directions shall be complied with within a period of four months from the date of receipt of a copy of this order by the respondents. There shall be no order as to costs.

C. C. Jain
(P.C. JAIN)
Member (A)

Ram Pal Singh
(RAM PAL SINGH)
Vice-Chairman (J)