

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO. 744/88

DATE OF DECISION: 6th Feb. 92.

SH. INDER MOHAN LAL TANDON ... APPLICANT
VERSUS
UNION OF INDIA ... RESPONDENTS

CORAM:-

THE HON'BLE MR. D.K. CHAKRAVORTY, MEMBER(A)

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

COUNSEL FOR THE APPLICANT : SH. S.K. SAWHNEY

COUNSEL FOR THE RESPONDENTS : SH. P.S. MAHENDRU

(JUDGEMENT)

(of the Bench delivered by Hon'ble Mr. T.S. Oberoi, Member(J))

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985 (hereafter "The Act"), the applicant has prayed for the following reliefs:-

(i) to direct the respondent to promote the applicant in scale of Rs.550-750/- against the resultant vacancies of Cadre-Review effective from 1.9.1981 vide Railway Board letter dt. 21.8.1981, Annexure A-2, and thereafter, to scale Rs.700-900/- with effect from 1.1.1984 vide Railway Board Letter dt. 1.5.1984 Annexure A-6, on scrufiny of his service records as provided in para 4-1, of Railway Board Letter dt. 1.5.1984, Annexure A-6, without subjecting him to any written and/or viva/voce test;

(ii) to grant any other relief that this Hon'ble Tribunal may deem fit and proper;

(iii) to award costs of this application.

2. The applicant's case briefly is that restructuring/cadre review, had taken place, firstly on 1.9.81 and again on 1.1.84, and had this been effected fully, after taking into consideration various contingencies such as some of the incumbents had died, transfer of some others to other divisions and medical unfitness of some of the employees, his chance for promotion to the post of Head Train Examiner in the scale of Rs. 550-750/- would have become due w.e.f. 1.9.81, as against some later date, as it came to be effective from, and thus he has suffered in the matter of his promotion, which may be un-done, as prayed for in this O.A.

3. The respondents have opposed the applicant's claim, by filing counter, stating that the position of various contingencies narrated by the applicant such as deaths, transfers or unfitness on medical grounds of some of the affected incumbents, has to be seen as on relevant date, which the applicant has not specified, and as would be seen from the Order of Promotions dt. 16.1.1982 (Annexure 1 to the counter), 17 promotions were ordered, in consequence of the restructuring/cadre review, effective from 1.9.1981. Further, because of the stay granted by Hon'ble Supreme Court, vide their Order dt. 10.1.1983, referred to in the communि-

cation filed as 'Annexure 'V' to the O.A., the grievance of the applicant is without any basis and deserves to be rejected.

4. We have heard the learned counsel for both the parties and have also considered the material on record. From Annexure IV, filed by the applicant, it appears that because of restructuring w.e.f. 1.9.81, there would have been a difference of 47 posts (the difference between 244 posts which existed in the scale of Rs.425-700/-, before 1.9.81 and 197, to which the same were reduced because of restructuring on 1.9.81), whereas only 17 promotions were ordered vide order dt. 16.1.1982 (Annexure 1 to the counter). Coupled with this, the contingencies such as deaths/transfers/unfitness on medical grounds would have also accounted for some more promotions to be added to the number which should have been promoted in the higher scale of Rs.550-750/-. Thus, to our mind, there is certainly force in the applicant's case in so far as restructuring brought into effect from 1.9.81, is concerned. So far as restructuring effective from 1.1.84 is concerned, the applicant would automatically be entitled to any gain, consequent to any, betterment in his position in the promotions effective from 1.9.81, though, according to him, he has already succeeded in the selection held for the next promotional post.

5. In result, we direct the respondents to re-examine

the applicants case, in the light of the observations, as above, and readjust his position, if due.

6. O.A. decided accordingly with no order as to costs.

oberoi
(T.S. OBEROI)
MEMBER(J)

chakravorty
(D.K. CHAKRAVORTY)
MEMBER(A)

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