

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA.387/87

Date of Decision: 18.11.88

L.S.John

Applicant

Vs.

Union of India

Respondents.

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PRESENT:

Shri B.D.Thareja, Counsel for the applicant.

Shri D.N.Moolri, Counsel for the respondents.

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Hon'ble Shri B.C.Mathur, Vice-Chairman.

This is an application under section 19 of the Administrative Tribunals Act 1985 filed by Shri L.S.John, Transportation Instructor, Railway Training School, Chandausi, against the impugned order No. 844E/103-XII/EiG dated 21.1.84 disallowing the benefit of "Next Below Rule" to the applicant.

The brief facts of the case are that the applicant was employed as a Trainee Clerk in the Bikaner Division of the Northern Railway on 1.4.56 and was promoted as Guard Grade 'C' in 1963 along with Shri S.C.Sharma. The applicant was ranked senior to Shri Sharma. Both the applicant and Shri Sharma were deputed to work as Transportation Instructors, Northern Railway in the same grade from September 1974 on ex-cadre post. Both were promoted in their parent Divisions as Section Controllers in the scale of Rs.470-750 and the applicant continued to rank senior to Shri S.C.Sharma. After resuming duty in the Bikaner Division as Controller the applicant was again deputed to work in the Training School, Chandausi whereas Shri S.C.Sharma was deputed in the Controller Office at the Northern Railway Headquarters in New Delhi in an ad hoc arrangement, the seniority of the applicant and Shri Sharma, Bikaner Division continued to be the same. Shri Sharma, however, was promoted to officiate as Deputy Chief Controller on 22.5.80 on an ad hoc basis in the grade of Rs.700-900 whereas the applicant continued to remain in the grade of Rs.470-750. Subsequently, Shri Sharma joined ^{the} Training School, Chandausi on 26.12.1981 in the grade of Rs.700-900.

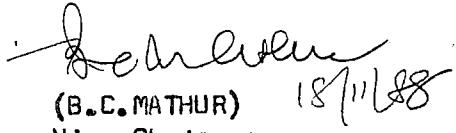
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There was restructuring of the post of Controller and with effect from 1.1.84 both the applicant and Shri S.C.Sharma were promoted as Deputy Chief Controllers in the grade of Rs.700-900 in the Bikaner Division. The grievance of the applicant is that while he has always been senior to Shri S.C.Sharma he got lower salary than Shri Sharma, while Shri Sharma was working at the Railway Headquarters, Baroda House and again at Training School, Chandausi. Shri Sharma got advantage of his higher salary at the Railway Headquarters when at Chandausi his pay was fixed at Rs.865/- whereas the applicant was drawing Rs.830/-. He, therefore, claims that he should be allowed higher salary under "Next Below Rule" which has not been given to him by the respondents. The learned Counsel for the applicant states that the Instructors who are not spared by the Principal of Training School, are allowed NBR which is, of course, not in the pleadings and it is not clear whether, at any time, the applicant was not spared by the Principal of the School. The learned Counsel for the applicant has also cited the Railway Board's letter No.F(E)/II-61PA4/1 dated 2.10.1971 where it has been laid down that the benefit of officiating promotion under NBR should be allowed, subject to the fulfilment of the conditions laid down thereunder, only against promotions in a cadre in vacancies of more than 120 days' duration. This has been reviewed and it is noted that the President is pleased to decide that the benefit of officiating promotion under these orders, subject to the fulfilment of the conditions laid down under the NBR can in future be allowed against promotions in vacancies each of more than 90 days duration as against the existing limit of 120 days'. The respondents in their reply have admitted all the facts but have denied the benefit of NBR to the applicant. They deny that the applicant made any representation to the General Manager for stepping up his salary on the ground that his junior was getting higher salary. The applicant has, however, filed a copy of the letter dated 11.2.86.

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The seniority of the applicant over Shri Sharma is not in dispute. But the relief asked for under the 'NBR' would not be admissible as the higher emoluments were given on an ex-cadre post. Since both the applicant as well as Shri Sharma are working in the same grade and even after restructuring the applicant remains senior it is illogical that a senior person working in the same grade at the same place should get lower

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emoluments than his junior. The respondents are directed to consider the representation of the applicant dated 11.2.86 and the general question of stepping up of salary of the applicant to that of Shri Sharma when they are working in the same office as provided under the relevant rules. A fresh representation along with the representation dated 11.2.86 should be sent by the applicant to the Department and the respondents may not raise any question of limitation in this case. The respondents will dispose of the applicant's representation within three months from the receipt of these ^{representations} orders. The application is disposed of accordingly. There will be no order as to costs.


(B.C. MATHUR) 18/11/88
Vice-Chairman.