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CENTRAL ADMINISTRATION TRIBUNAL PRINCIPAL BENCH NEW DELHI

Original Application No. 1128 of 1987

Kartar Singh Applicant

Versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C. Griavastava, V.C.

Hon'ble Ms. Usha Savara, Member (A)

(By Hon'ble Mr. Justice U.C. Griavastava, VC)

The applicant who joined the Northern Railway as a Trainee Journeyman in the year 1959, who was selected to the post of Chargeman in the grade of Rs. 250-380 in the year 1965. One Janak Raj was also selected, but in panel, the applicant was at serial no. 5 while the said Janak Raj was at sl. no. 7. The said Janak Raj was working on adhoc basis as Chargeman w.e.f. 1963, but according to the applicant no option was taken from him for this adhoc appointment ^{and thus} as the adhoc appointment could not have conferred the seniority on the said Janak Raj over and above to the applicant. ^{in view of} In view of the fact that he is in panel, his name was above to the name of the Janak Raj. The applicant was transferred to Bikaner and his pay was fixed at Rs. 260/- and at that time the salary of said Janak Raj was Rs. 290/-. As the applicant was senior to the Janak Raj, he made a representation upto the Board level and Board gave decision in this behalf vide its letter dated July, 1986 a copy of which has been placed on record, the Board decided that the applicant was senior to said Janak Raj, but ~~he~~ directed the D.F.O., Delhi that further necessary action in terms of the Railway Board's instructions contained in F.S. No. 6032(S) may be taken at his end after obtaining service particular of the said Pri

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Janak Raj. The said P.S. provides that the benefits of stepping up of the pay may also be given and the adhoc promotion with the senior and juniors persons are followed by their regular promotion without break. The pay of senior person will in such cases be stepped up from the date of occurrence of the anomaly i.e. from the date of promotion of junior and not from the date of regularisation of his promotion. Thus, according to the applicant he was arbitrarily deprived of his salary and was made to draw less than Janak Raj ~~and~~ despite this fact ^{that} he made the representations ^{against it}. The respondents preferred ~~to~~ to keep mum and not to decide in favour of the applicant as has done by them, in this case where they have preferred not to file any written statement or they have preferred not to appear. The impugned order against which this application has been filed dated 19.6.1987 provides that the next suitability test for the post of 'Chargeman' was held on 31.7.1977 and 23.12.1977 in which he was not called as he did not exercise his option for the post of D.S.L. Mechanic and ~~was~~ was original hand of mill wright ^{cadre} and officiating in diesel cadre, after exercising the option the supplementary suitability written test was held on 23.1.1979 in which he was given seniority position on the basis of suitability test. ~~As~~ It is clear that the applicant was not called in the earlier test. Merely because, he was asked to appear in the supplementary test in which his ~~past~~ seniority ^{cadre} ~~can~~ ^{have} not been affected ~~and as~~ the applicant ^{now} became a regular promotee thereafter. Accordingly in view of the P.S., as referred to above, the applicant's salary could not have been lesser than that of the junior i.e. the said Janak Raj, as the seniority matter was finally ignored by the respondents. Accordingly, this application is allowed and even though, the applicant has retired. The

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respondents are directed to give proforma fixation of pay to the applicant in the grade of Rs. 700-900/- and making him ^{equal} ~~all~~ with the next junior Janak Raj ^{and since} ~~is~~ the applicant has ^{all} retired, the consequential benefits will be given to the applicant within a period of 3 months from the date of communication of this order. With these observations, the application is disposed of finally. No orders as to the costs.

Lavanya
Member(A)

[Signature]
Vice-Chairman

Dated: 22.12.1992.
(RKA)