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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.1153/1987

DATE OF DECISION 9.8.1991

SHRI P.N.SHUKLA

.. APPLICANT

VS

UNION OF INDIA & ORS.

.. RESPONDENTS

CORAM

HON'BLE SHRI J.P.SHARMA, MEMBER (J)

HON'BLE SHRI B.B.MAHAJAN, MEMBER (A)

FOR THE APPLICANT

SHRI ASHISH KALIA, PROXY FOR
.. SHRI R.L.SETHI, COUNSEL

FOR THE RESPONDENTS

.. SHRI P.S.MAHENDRU, COUNSEL

1. Whether Reporters of local papers may be allowed
to see the Judgement? 75

2. To be referred to the Reporter or not? 75

J U D G E M E N T

(DELIVERED BY HON'BLE SHRI B.B.MAHAJAN, MEMBER (A))

Shri P.N.Shukla has filed this application under
Sec.19 of the Administrative Tribunals Act, 1985 with
the prayer for setting aside the order dated 22-7-1984
issued by the Northern Railways and allowing him the

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benefit of the grade of loco Foreman w.e.f. 1-1-1984 on the basis of restructuring order from that date with consequential financial benefit.

2. The facts of the case briefly are that the applicant was recruited as Apprentice Fireman Grade I in Northern Railways on 3-5-1960 and in due course of time promoted as Assistant Loco Foreman^(ALF) scale Rs.550-750 w.e.f. 21-9-1982. With the implementation of the recommendations of the IVth Pay Commission, the Assistant Loco Foreman as well as Loco Foreman Grade 'B' were both allowed the new Grade of Rs.2000-3200. The applicant was accordingly fixed in this grade w.e.f. 1-1-1986 as ^{per} the Government orders on the recommendations of the IVth Pay Commission conveyed in Railway Boards instructions dated 24th September, 1986 (Annexure R-1). Earlier the Railway Board had on 1-5-1984 issued instructions regarding restructuring of cadres for Group 'C' (Annexure R-3). As a result of the restructuring, certain posts of Assistant Loco Foreman and Chargeman 'A' Grade, both in the pre-revised scale of Rs.550-750, got upgraded as Loco Foreman (L.F.). The fixation of pay against these posts upgraded was to be given w.e.f. 1-1-1984. In this restructuring, the categories of Chargeman Grade 'A' & 'B' were combined with the category of Loco Foreman and it

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was decided by letter dated 6-11-1984 of D.M. Personnel Northern Railways that promotion from category of Chargeman Grade 'A' to the Loco Foreman would be through category of Assistant Loco Foreman. This was also reiterated in Northern Railways instructions dated 25-7-1986 (Annexure A-6) which stipulated that Chargemen 'A' Grade Rs.550-750 have first to become A.L.F. in the same grade and then will get further promotion to higher grade of Loco Foreman Grade Rs.700/- - 900/- on the basis of their seniority as A.L.F. On an application by certain staff before Jodhpur Bench of this Tribunal, the Tribunal set aside the instructions contained in letter dated 6-11-1984 and directed the administration to promote Chargeman Grade 'A' directly to the Grade of Loco Foreman. The matter was thereafter referred by the Northern Railways to the Railways Board who observed that it had been incorrect to combine the maintenance cadre and the Loco Running cadre for the purpose of implementation of restructuring orders. The Board directed that the matter be reviewed afresh. Thereafter the impugned order was passed by the Northern Railways on 22-7-1987 with the concurrence of both the Unions that the Maintenance and Running cadres should be segregated in case of Supervisors with retrospective effect from 1-1-1984 and the restructuring orders issued by the Railway Board in respect of Maintenance and Running staff may be implemented after the combined cadre of A.L.F. and L.F. has been spilt up between

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the maintenance and the running staff. A revised cadre strength of Loco Foreman, Maintenance was annexed to these instructions. Separate channel of promotion for Loco Maintenance and Loco Running staff w.e.f. 1-1-1984 was also annexed as Annexure - I to these instructions. The grievance of the applicant is that as a result of implementation of these instructions, respondent No.2 who was junior to him in the seniority list of Assistant Loco Foreman circulated on 31-3-1984 by Divisional Personnel Officer Bikaner (Annexure A-3) now would get the scale of Loco Foreman w.e.f. 1-1-1984 against the restructuring of post while he would get the same scale w.e.f. 1-1-1986 so that he would now become junior to respondent No.2.

3. We have heard the learned counsel for the parties and have gone through the pleadings of the parties. The applicant has prayed for quashing the instructions contained in Northern Railways' letter dated 22-7-1987 (Annexure -A1). The main ground urged in support of this prayer is that without affording reasonable opportunity to effected persons including the applicant a new procedure has been prescribed with retrospective effect against the applicant's interest. As is evident from the narration of factual background in para 2 above, these

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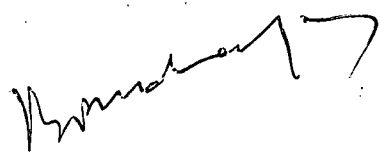
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instructions have been issued because Jodhpur Bench of the Tribunal has set aside the earlier instructions contained in letter dated 6-11-1984 and directed the administration to promote Chargeman Grade 'A' directly to the grade of Loco Foreman. This judgement was binding on the railway administration unless it was set aside on an appeal by the Hon'ble S.C. The applicant if he was aggrieved by this judgement could have either moved the Jodhpur Bench of the Tribunal for review of the judgement or filed S.L.P. before the Supreme Court. Since he did not take recourse to any of these remedies the judgement would be binding on him also. As mentioned in the impugned letter dated 22-7-1987, the matter was thereafter referred to the Railway Board who observed that it had been incorrect to combine the maintenance cadre and the loco running cadre for the purpose of implementation of the restructuring order which was issued earlier. The applicant has not shown how this decision of the Railway Board was unreasonable or arbitrary. The impugned instructions have been issued by the Northern Railways in compliance with the Railway Board's direction and with the concurrence of both the unions. It has not been shown that the General Manager, Northern


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Railways was not competent to issue these instructions. The assertion that these instructions have been issued without affording reasonable opportunity to affected persons including the applicant loses its weight when these had been issued with the concurrence of the unions. When general policy instructions are issued effecting a large number of employees it is obviously impracticable to afford all the persons likely to be effected an opportunity of making a representation before issue of such instructions. No authority has been cited in support of the contention that it was necessary in such a case also to afford to the persons likely to be effected such an opportunity before issue of these instructions. The only other ground urged against these impugned instructions is that as a result of their implementation the applicant who was senior to the respondent No.2 as A.L.F. would now get the scale of Loco Foreman on a subsequent date and would thus become junior to the latter. However while the applicant was A.L.F. from the Foremens category staff the respondent No.2 was a Chargeman from the maintenance side. These are two different categories and if as a result of segregation of the cadre of maintenance and running staff respondent No.2 happens to get promotion to the post of

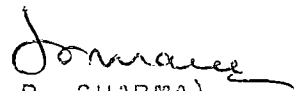
Loco Foreman (Maintenance) at a earlier date than the applicant this would by itself not amount to hostile discrimination as both belonged to separate categories. It has not been shown that the impugned instructions are unreasonable or classified these two categories in an arbitrary manner. It is true that earlier the employees serving as Chargeman Grade I were required to get promoted first to the post of A.L.F. in the same scale before being considered for promotion as Loco Foreman, This procedure has been set aside by Jodhpur Bench of the Tribunal as pointed out above, and it is, therefore, not open to the applicant to insist that the same procedure should continue to be followed. The seniority list Annexure A-3 had been prepared when the earlier instructions were in force and had now ceased to be relevant. The contention of the applicant that he should also be given the Loco Foreman Grade w.e.f. 1-1-1984 because respondent No.2 who is shown junior to him in the seniority list has been given this Grade from that date has no merit as the latter got this Grade because of restructuring of the cadre while the applicant unfortunately did not qualify for this Grade ^{at that time} in his own cadre of A.L.F. The applicant has not shown that any A.L.F. junior to him has been given this Grade earlier than 1-1-1986.



4. In view of the above, there is no merit in the application and as such the same is rejected. There is no order as to costs.



(B.B. MAHAJAN)
MEMBER (A)



(J.P. SHARMA)
MEMBER (J) 9/8/91