

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI
CCP No. 7/1989 in
O.A. No. 1143
T.A. No.

198 8.

DATE OF DECISION August 2, 1989.

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Shri Veer Pal & Another Applicant (s)

Shri B.S. Mainee, Advocate for the Applicant (s)

Versus
General Manager, Northern Respondent (s)
Railway & another

Shri Inderjit Sharma, Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. B.C. Mathur, Vice-Chairman.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

By: Hon'ble Mr. Justice Amitav Banerji, Chairman.

The present C.C.P. has been filed by the applicants S/

Shri Veer Pal and Prem Kumar. Shri Veer Pal is employed as Clerk under Senior Divisional Electrical Engineer (RS), Northern Railway, Ghaziabad and Shri Prem Kumar is employed as Telephone Clerk under Loco Foreman, Northern Railway, Jind. They have filed the CCP praying that the order of the Tribunal in OA 1143/1988 dated 29.8.1988 has not been implemented by the respondents Union of India and the Divisional Railway Manager, Northern Railway, New Delhi. A Division Bench of this Tribunal by its judgment dated 29.8.1988 held that the decision of the Tribunal in Shri Chander Mohan Sharma & Others vs. Union of India and others dated 26.6.1987 squarely applied to the facts of the present case and gave the following directions:

"... Hence following the aforesaid judgment, we direct the respondents that the entire service of the applicants w.e.f. 2.6.83 shall be reckoned for the purpose of seniority in the aforesaid grade and on the basis of seniority, the applicants shall be entitled to all the consequential benefits including consideration for promotion to the next higher grade in accordance with the rules. This order shall be complied with within three months from the receipt of its copy. There will be no order as to costs."

The applicants (hereinafter referred to as 'the petitioners') in this CCP have stated that they have not been given their due place in the seniority and their juniors have also been promoted to the post of Head Clerks and the order of this Tribunal has not been implemented. Consequently, action may be taken under provisions of Section 17 of the Administrative Tribunals Act, 1985 against the respondents.

We have heard learned counsel for the respondents also, and he has pointed out that the respondents have assigned seniority to the petitioners in the Junior Clerks cadre retrospectively from 2.6.1983 in pursuance of the order of the Tribunal. He has also submitted that it takes time to comply with such order. The respondents have prayed that the C.C.P. be dismissed. Learned counsel for the respondents also pointed out that they had filed an additional reply in which they have elaborated their stand by saying that they have complied with the first part of the order viz. that the entire service of the petitioners w.e.f. 2.6.1983 shall be reckoned for the purpose of seniority. Learned counsel submitted that this had been complied with and there is an order dated 14.6.1989 to this effect and he has

produced that order before us. In regard to the promotion, learned counsel stated that the direction of the Tribunal was "to consider them for promotion to the next higher grade in accordance with the rules". Learned counsel stated that this had also been complied with inasmuch as the petitioners had been considered for promotion and had been empanelled for the next higher post of Senior Clerks and orders had been issued on 10.7.1989 promoting them as Senior Clerks. Learned counsel submitted that there has been a substantial compliance with the orders of the Tribunal. Learned counsel submitted that the promotion to the post of Head Clerk which was urged by the learned counsel for the petitioners as termed one of the consequential benefits was untenable in view of the fact ~~XXXX~~ that the Tribunal had directed them to be considered for the promotion of next higher grade, the petitioners were LDCs and they were promoted to the next higher rank of UDCs. The question of promoting them to Head Clerk will await its turn and is not envisaged under the order dated 29.8.1988. He further submitted that if the petitioners were aggrieved by any order of the respondents in regard to their further promotion, that would not be a matter to be considered in this CCP as a consequential benefit.

We have heard learned counsel for the parties and we are of the view that the stand taken by the respondents is correct. There has been a substantial compliance with the orders of the Tribunal. Even though ~~1~~ consequential orders have been passed by the respondents after expiry of some considerable time, the fact that the Tribunal's order has

been implemented does not call for pursuing the CCP any further. The question of promotion as Head Clerk is not one of the matter which can be termed as consequential benefit envisaged by the judgment of the Tribunal. The Tribunal was very clear in its mind when it said that the promotion of the petitioners to the next higher grade was to be considered. That has been considered and the petitioners have been promoted and they have been given their seniority with retrospective effect. We are, therefore, of the opinion that no case for taking action under Section 17 of the Act is made out. Consequently, the CCP must fail. If any monetary benefits have accrued to the petitioners because of their promotion, we are certain that the same would be given to them in due course.

The matter of promotion to Head Clerks' post is not a matter which can be raised in the present CCP, for that the petitioners may have to seek fresh reliefs. With these observations, we dismiss the CCP and discharge the notice issued to the respondents.


(B.C. MATHUR)
VICE-CHAIRMAN
2.8.1989.

SKS


(AMITAV BANERJI)
CHAIRMAN
2.8.1989.