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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

DA NO. 162/90

DATE OF DECISION: 9.7.90

SHRI BURCHARAN SINGH

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

SHRI G.D. BHANDARI

ADVOCATE FOR THE APPLICANT

MRS. SHASHI KIRAN

ADVOCATE FOR THE RESPONDENTS

FORAM:

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

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member(A))

The applicant is working as a Station Master in the Delhi Division of the Northern Railway. A major penalty chargesheet No. Vig./194/35/Optg/15/pt.IV dated 13.6.1985 was issued and acknowledged by him on the same date. As the documents relied upon in framing the charges were not produced, the Inquiry Officer could not proceed with the case. He, therefore, returned the papers to the disciplinary authority. As the disciplinary proceedings remained in a state of animated suspension, Shri Burcharan Singh filed DA No. 646/87 in the

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2. Thereafter, the applicant appeared in the selection held for the post of Station Superintendent/11/DY. CYN (Rs. 2000-3200), held on 10.12.1988, 17.12.1988 and viva voce on 17.2.1989 and 17.3.1989 was announced. The applicant was placed at serial No. 38 in a provisional panel of 57 persons published vide letter No. 758-E/32/XII-D (P.1) dated 10.3.1989. Most of the empanelled persons, including the persons junior to the applicant, were promoted to the grade of Rs. 2000-3200, but the applicant's promotion was withheld stating that his case was under consideration (Order No. 758 E/32/XV/34/F-1 dated 3.4.1989 page 15 of the paper book). Aggrieved by the above the applicant filed this application praying that the respondents be ordered/directed to implement and operate the select list dated 10.3.1989 and promote the applicant to the post of Station Superintendent in

- (i) Charge sheet issued 13.6.1988
 - (ii) Decision of the Tribunal directing the respondents to complete the inquiry within four months 24.6.1987
 - (iii) Inquiry completed 10.2.1988
 - (iv) Order of the disciplinary authority exonerating the employee 19.2.1988
- relevant events as under:-
- As narrated in the charges on 19.2.1988, the chronology of the inquiry was finally completed on 10.2.1988 and the applicant was extended by three months at the request of the respondents. The applicant within four months. This period was further the respondents to complete the disciplinary proceedings against the Tribunal. The Tribunal in its decision dated 24.6.1987 directed

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The following provisions in para-3.1 above contained in Railway Board's order dated 20.11.1989 are relevant only in cases where the railway servants are under suspension or against whom disciplinary proceedings/criminal prosecution is pending and

initiation of only a minor penalty." on are proposed to be initiated and for suspended and the proceedings already initiated under suspension or is not proposed to be initiated, no objection to promote him if he is not investigation against him is known. There is, that till after the result of the proceedings or if already done or a selection panel/suitability Such a Railway servant shall not be promoted even

otherwise. the CBI or any other agency, departmental or similar grave misconduct is in progress, either by or serious allegation of corruption, bribery or Railway servants against whom an investigation

been taken to sanction prosecution; prosecution has been issued or a decision has been taken for a criminal charge is pending or sanction for Railway servants in respect of whom prosecution

proceedings, authority to initiate major penalty disciplinary decision has been taken by the competent proceedings for major penalty are pending or a Railway servants in respect of whom disciplinary

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lastly against such railway servants who are under investigation on serious allegation of corruption, bribery or similar grave misconduct either by the CBI or any other agency departmental or otherwise. Clearly, the first three situations do not cover the applicant. The last situation, too is not relevant in this case as the applicant had been investigated by the vigilance/CBI, and he has been exonerated based on the report of the inquiry officer by the disciplinary authority.

In view of the above facts, we are of the opinion that the instructions contained in para-3.1 of the Railway Boards Order are not applicable in the case before us.

4. The applicant will be in double jeopardy if the respondents are allowed to withhold his promotion, till the review/revision of the case in which he has been exonerated, is finalised. This is already pending for about 24 years. He has already suffered considerable financial loss as on the occasion of his last promotion he was denied the arrears of pay by giving him proforma fixation after about 3 years from the due date. Interestingly, the same vigilance case, as is now under review/revision was then pending against him. It will be blatantly unfair to allow the repetition of similar treatment.

5. In the facts and circumstances of the case we order and direct that the respondents shall promote the applicant, w.e.f. the date his next junior on the provisional panel declared on 10.3.1989 was promoted by virtue of his having been declared successful in the selection held for the post of Station

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(T.S. OBEROI)
MEMBER(J)

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MEMBER(J)

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There will be no orders as to the costs.

Superintendent/TI/DY. CVM in the grade of Rs. 2000-3200 with all consequential benefits. The respondents however, shall be at liberty to institute action as per the statutory provisions, in case the competent authority decides to pursue the case further, consequent to the review/revision of 19.2.1985 order.

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