

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.342/90

New Delhi, this the 22nd day of July, 1994.

HON'BLE SHRI C.J.ROY, MEMBER (J)

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (A)

Shri Baldev Raj
Head Shroff
Divisional Cashier (Receipt)
Northern Railway, Delhi
r/o C5/148,
Lawrance Road,
Delhi.

..Applicant

(By Shri R.K.Relan, Advocate)

Vs.

1. Union of India, through:

General Manager,
Northern Railway,
Baroda House, New Delhi.

2. The Chief Cashier, J.A.A.
Northern Railway,
New Delhi.

3. The Divisional Cashier (R),
Northern Railway,
Delhi.

..Respondents.

(By Shri H.K.Gangwani, Advocate)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (A)

Railway Board had issued order on 25-6-85 for restructuring certain group 'C' and group 'D' cadres. Consequent to these orders, there was an increase in the number of posts in the higher grades. The applicant who was functioning as Senior Shroff in the scale of Rs.330-560 at the relevant point of time became eligible for consideration for promotion to the post of Head Shroff in the scale of Rs.425-640, with effect from 1-1-84 nationally and for actual payment from 1-1-1985. Accordingly Staff Office Order (SOO) No.2 dated 3-1-86 (An.A4 to OA) was issued in which the applicant was shown promoted vice one Shri Raghubar Dutt. After some time promotion orders were re-issued to him vide SOO No.102 dated

9-1-90 (An.A1 to OA). This O.A. has been filed for the setting aside of the S.O.O of 9-1-90 and for the conferment of the benefit of promotion as Head Shroff in terms of the S.O.O No.2 dated 3-1-86.

2. The learned counsel for the applicant argued that the applicant has taken over the post of Head Shroff on 17-1-86 and had reported accordingly to the Chief Cashier. A copy of his report is annexed as An.A6 to the O.A. A copy of the attendance register for March 1986 wherein the applicant is shown as Head Shroff has been attached to the rejoinder. It was conceded that Shri Raghubar Dutt against whose vacancy the applicant was to have taken over as per S.O.O No.2 dated 3-1-86 did not move out on promotion to Bikaner but Shri Raghubar Dutt was ultimately allowed to continue in Delhi itself as Assistant Divisional Cashier from 14-4-86. Reference has also been made to para 9 of the Railway Board orders dated 25-6-85 which reads as under:-

"In all the categories covered by this letter even though more posts in higher scales of pay have been introduced as a result of restructuring, the basic functions, duties and responsibilities attached to these posts at present will continue to which may be added such other duties and responsibilities as considered appropriate."

The applicant's counsel argued that it is immaterial whether the applicant was functioning as Senior Shroff or Head Shroff in view of the above provision and so long as he was found eligible for promotion he should have been given the benefit of the higher pay.

3. In reply the respondents have explained the sequence of events. The applicant was promoted

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against the vacancy to be created by the movement of Shri Raghubar Dutt to Bikaner. However, Shri Raghubar Dutt refused to move out of Delhi and hence there was no vacancy for accommodating the applicant at Delhi and the orders of promotion dated 3-1-86 (S.O.'s note No.2) had to be modified by S.O. No.33 dated 25-3-86 by which modification the applicant was transferred and posted to Bikaner. None of his juniors was promoted and kept at Delhi at that point of time. The applicant refused to go to Bikaner and thus did not accept promotion as Head Shroff. The respondents add that the applicant was promoted again and again but every time he refused his promotion. At last he was put to officiate as Head Shroff on 9-1-90 vide S.O. No.112 and posted at Delhi. As regards Shri Raghubar Dutt, respondents were in a position to accommodate him in April 86 at Delhi initially on a purely temporary basis and this and further vacancies of Head Shroff at Delhi which ^ arose at dates later to the transfer of the applicant to Bikaner had to be filled by those who were working outside Delhi as Head Shroffs and had made request for transfer to Delhi. The applicant not having gone out of Delhi at the first instance could not claim priority for posting at Delhi against the post of Head Shroff in preference to those who were working as Head Shroff in outside places and who had registered their requests for transfer to Delhi.

4. Having heard both the counsels we note that a relief is now being claimed with regard to the promotion orders issued on 3-1-86. It is clear that the applicant has approached the Tribunal belatedly only some time in February 1990 for implementation of promotion orders of 1986. Even on this aspect of limitation the O.A. is liable to be dismissed.

5. Apart from the above, even on merits we are not satisfied that the applicant has a case for the reasons as under:-

5.1 As per the respondents the applicant was promoted again and again but every time he refused the promotion. We find in An.A17 to O.A, a copy of SOO No.58 dated 5-6-87. In this order the applicant had been promoted to the post of Head Shroff at Bikaner. The applicant had not chosen to challenge this order before this Tribunal if he had been aggrieved by this and had approached the Tribunal only in February 1990 when he was due to retire on superannuation on 28-2-90.

5.2 In An.A18 the O.A which is a representation by the applicant to the Chief Cashier, it has been admitted by him that he had refused promotion though conditionally by his letter dated 1-5-86. In An.A22 to the O.A. a copy of the Chief Cashier's letter addressed to the General Manager, Northern Railway is enclosed. In this annexure which is produced by the applicant himself, it is brought out that the applicant was debarred from promotion vide SOO No.65 dated 26-5-86 consequent on his refusal to move out on promotion outside Delhi.

From the above documents produced by the applicant himself it is clear that the applicant was fully aware of his being debarred from promotion in 1986.

5.3 We are not prepared to give special weightage to the office attendance register produced at the time of filing the rejoinder. We are also not convinced by the reference to para 9 of the restructuring order of Railway Board dated 25-6-85 supra. Even after upgradation, eligible staff have to be promoted and take over the charge of the post against which they get promoted. Unless the post in which an employee is working is itself upgraded, no benefit of promotion

for continuing to do the same work can be claimed. Some entry in the attendance register for some period is not an evidence that there was an office order which was properly implemented with regard to promotion.

6. The applicant is aggrieved that he was transferred at the time of promotion even though some vacancies were occurring within a short period thereafter but this is an issue which has no bearing on the disposal of this O.A. We are not convinced that the applicant was discharging the duties of a higher post from 1986 onwards. The O.A. is dismissed accordingly. No costs.

P. T. Thiruengadam
22/7/94
(P.T. THIRUVENGADAM)
Member (A)

C. D. Roy
22/7/94
(C.D. ROY)
Member (J)