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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A. No. 6/90

New Delhi this the 10th of June 1994

Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. B.K. Singh, Member (A)

Shri Raj Kishan
son of Shri Billa Ram,
R/o 178/3 Railway Colony,
Kishan Gunj, Delhi

... Applicant
(By Advocate Shri S.K. Sawhney)

Vs.

1. Union of India
through General Manager,
Baroda House,
New Delhi.

2. Senior Divisional Personnel Officer,
Northern Railway,
D.R.M. Office, Delhi.

... Respondents

(By Advocate : None)

O R D E R

Hon'ble Mr. J.P. Sharma, Member (J)

The applicant earlier filed an injunction suit which was transferred to the Principal Bench Registered TA No. 106/87 and was decided on 31.5.1988 with the direction to the respondents that the Plaintiff i.e. the applicant should be deemed to have been regularly appointed as a Fuel Issuer with effect from 4.9.1978 and directed that he should not be reverted on the basis of his failing in the written test held on 26.10.1980. On the basis of the above decision the respondents by their order of 20.12.1988, the applicant was placed in the seniority list at Serial No. 44A below Shri Rajinder Pal and above Shri Tekiya Ram, Item No. 45, of the Clerical Staff Mechanical Group Gr. 260-4000 (RS) including JODC Store Issuer, Tool Checker issued on 20.12.1985. The

The case of the applicant is that he was entitled to promotion as Senior Clerk in the scale of Rs.330-560 (Rs.1200-2040) by virtue of a revised seniority against the vacancies created by order of the Senior Clerks. The applicant also qualified in the suitable test and was promoted to the post of Senior Clerk vide letter dated 9.10.1989. The applicant, therefore, submitted his representation on 23.10.1989 for grant of benefit of promotion to the upgraded post of Senior Clerk with effect from 1.10.1980, the date his junior was granted this benefit but the same was rejected by the impugned order dated 29.11.1989.

2. The applicant has prayed for the grant of the relief that the respondents be directed to permit the applicant with effect from 1.10.1980 or such other date from which a person junior to him was promoted with all consequential benefits. The respondents opposed this application and in the reply stated that no junior to the applicant has been promoted as Senior Clerk nor has been given upgradation by virtue of the various orders of upgradation issued in October 1978, January 1979, June 1979, October 1980 and in 1984. The applicant, therefore is not entitled to any relief and the order dated 20.11.1989 is just and fair and not discriminatory.

3. The applicant has filed the rejoinder but in the rejoinder the point whether any junior to the applicant has been promoted has not been specifically controverted.

4. We heard the counsel of the parties at length and perused the record. During the course of the hearing the counsel for the applicant has also furnished the seniority list of clerical staff Mechanical group as on 28.12.1985 and it goes to show that the name of the applicant Raj Kishan is at Serial No. 44A below Rajinder Lal and above

Shri Tikaya Ram who is SC Candidate. The seniority list of Senior Clerk as on 4.5.1989 is also being filed in which the name of Tikaya Ram appeared at Serial No.22 and his date of promotion is shown as 8.1.1987. The learned counsel has also filed the seniority list of Head Clerk, the Mechanical Group as on 20.2.1992. Since none appeared on behalf of the respondents we could not get the actual facts as in the counter there is a specific averment that no junior to the applicant has been promoted. In fact the name of the applicant Raj Kishan has been interpolated just above Tikaya Ram by the order dated 20.12.1988 Annexure A-3. It appears from the record that the respondents have notified certain posts of Senior Clerks which have been upgraded and were given prospective operation by the order dated 12.8.1988/6.12.1988. Both these orders of upgradation have been cancelled by the order dated 8.3.1989. The name of the applicant does not appear in this list of upgradation which covers the upgraded posts with effect from various dates upto 1.1.1984. This is Annexure R-1 to the counter. The name of Tikaya Ram does not find mention in this list. However, the seniority list which is dated 4.3.1989 shows the name of Tikaya Ram at Serial No. 22. From the above record, therefore it is not evident whether all the upgraded posts have been accounted for and that the proper steps have been taken to depict the promotion in the seniority list.

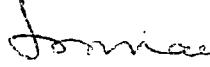
5. The learned counsel for the applicant contended that the applicant prays for giving benefit of upgradation to the post of Senior Clerk with effect from the date his junior to him have been given the benefit, since he has

already qualified the test in 1989. For want of the proper record from the side of the respondents no specific order can be passed for giving the benefit to the applicant at this stage. However, the application is disposed of as follows:

1. The respondents are directed to consider the case of the applicant and if any junior of General category to the applicant has been given the benefit of upgradation from retrospective date, the applicant should have also be given the same benefit. The respondents should decide the matter within the period of three months from the date of receipt of the copy of this order.

M.C. 5


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)

Mittal