

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.678/1990

New Delhi, This the 18th Day of July 1994

Hon'ble Shri C.J. Roy, Member(J)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Shri Jaswant Rai, Aged 47 years
son of Late Shri Ranjha Singh R/o
10/4, Railway Quarter
Kishan Ganj, Delhi working as
Supdt, S & T Branch,
Divisional Rail Manager's Office,
Northern Railway,
New Delhi.

..Applicant

By Shri S K Sawhney, Advocate

Versus

Union of India Through

1. General Manager
Northern Railway,
Baroda House,
New Delhi.
2. Senior Divisional Personnel Officer
Northern Railway,
Chemsford Road,
New Delhi.

..Respondents

By Shri B K Aggarwal, Advocate

O R D E R (Oral)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

1. The applicant while functioning as Asst Supdt in grade Rs.1600-2660 was promoted on adhoc basis to the higher grade post of Supdt in scale Rs.2000-3200 initially on 1.8.87. Later this was continued beyond 1.11.87. For the period from 1.8.87 to 30.10.87 sanction was accorded by competent authority for granting officiating allowances in the higher scale. Vide the impugned order Annexure A-1 dated 17.3.89 notice was issued by the Senior Divisional Pay Officer, Divisional Rail Manager's Office, New Delhi to the effect that the applicant had been

erroneously promoted as Supdt in Grade Rs.2000-3200 on adhoc basis and was hence being reverted from 1.11.87. This notice also, added that excess payment made towards the officiating allowance in the higher post should be recovered.

2. This OA has been filed challenging the above impugned order dated 17.3.89 and for consequential benefits.

3. The case of the respondents is that the applicant had been functioning in the grade of Asst Supdt on adhoc basis at the relevant point of time and his further promotion to the higher grade of Supdt was on a second adhoc promotion basis. Such a second promotion was given by mistake for which action has been taken on the erring staff responsible for the lapse. Since ~~ad~~^{second} adhoc promotion is not permissible as per instructions the impugned order had to be issued.

4. Having heard both the counsels we note that it is not denied that the applicant had discharged the duties of the higher post of in Grade Rs.2000-3200 during the period 1.11.87 to 12.1.89. As regards eligibility for payment in the higher scale it is not relevant as to whether such promotion to the higher post was made properly as per instructions are not. So long as the functions and responsibilities of the higher posts have been discharged and work corresponding to the higher post extracted from the applicant it will be unjust and unfair to deny him the relevant pay scale. Hence we have no hesitation in quashing the impugned order dated 17.3.89 and direct that ~~no~~ recovery should be made for the period from 1.11.87 to 12.1.89. If any recovery had been made in this regard

this should be refunded to him. The benefit of having served in the higher post from 1.8.87 to 12.1.89 should be extended to him for the purpose of fixing of pay in the higher scale of Supdt as and when he was regularly promoted. The above direction should be implemented within three months from the date of receipt of this order. The OA is disposed of with the above direction. No costs.

P.T.Thiru

(P.T.THIRUVENGADAM)
Member (A)

U.S. Roy
(C.S. ROY)
Member (J)

LCP