

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO.526/92

DATE OF DECISION : 11-12-92

Shri Udial Singh ...Applicant
Vs.
General Manager, Northern Railway ...Respondents
& Ors.

CORAM

Hon'ble Shri P.C. Jain, Member (A)
Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant ...Shri B.S. Mainee, Counsel
For the Respondents ...Shri D.S. Mahendru, proxy
counsel for
Shri P.S. Mahendru, counsel

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J)

The applicant was originally appointed as Press Khallasi on 17.6.1963. During the course of his service, he was given promotions and w.e.f. 1.8.1978 he had been working as Highly Skilled Grade-I Key Board Operator and w.e.f. 1.2.1991 he has been promoted as Craftsman in the pay scale of Rs.1400-2300 on temporary basis. In 1986, he had exercised his option for further promotion for the post of Chargeman Group 'B' Mono in the pay scale of Rs.1400-2300. This post was to be filled up by promoting a reserved candidate from amongst the Scheduled Caste/Scheduled Tribe candidates. The grievance of the applicant is that the respondents are not considering him for promotion to the grade of Chargeman Grade 'B' Mono w.e.f. 27.5.1991. The applicant, therefore, impugned the action of

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respondents Nos.1 and 2 in allowing respondent No.4, Sh.A.N.Bhagat by promoting him as Mistri Mono. He also assails the action of the respondents in not allowing the applicant to take the trade test for the second time for the post of Mistri Mono even though he is the senior most among the incumbents to claim entitlement for promotion to the post of Chargeman Grade 'B' Mono.

2. The facts of the case are that the applicant fulfils the conditions of eligibility and he is also a Scheduled Caste candidate, but he was not allowed to work against the said post of Chargeman Grade 'B' Mono. However, he was promoted as Craftsman w.e.f. 1.2.1991 in the pay scale of Rs.1400-2300 on temporary basis. It is also averred in the application that respondent No.4, Shri A.N. Bhagat was promoted as highly skilled Grade I w.e.f. 1.3.1984, while the applicant already stood promoted to the same grade w.e.f. 1.8.1979 and as such he has been senior to respondent No.4 by nearly 6 years. The applicant had been appointed as Chargeman Grade 'B' Mono. He would have claimed further promotion to the post of Senior Chargeman in the grade of Rs.1640-2900 and then as Foreman. While in the channel of promotion of Mistri Mono in the pay scale of Rs.1400-2300, he would get promotion as Chargeman Mono in the same scale. One

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Shri Milki Ram was allowed to function against the post of Charge man Grade 'B' Mono, while the applicant was very much available for that reserved post as a Scheduled Caste candidate. Shri Milki Ram retired from service after 31.3.1986 and the post was kept vacant and subsequently, it could not be filled up because of the operation of the stay order passed in an application-TA No.18/86 filed by one Shri K.L. Vohra, who laid claim to the post of Charge man Grade 'B' Mono. After the decision of that case filed by Sh.K.L.Vohra by the judgement dt.27.5.1991, the post was required to be filled up by appointing or promoting a Scheduled Caste candidate. The applicant was not considered for the said post after July, 1991. The applicant apprehends that instead of promoting him, respondent No.4 may be promoted against that post. Earlier a test was to be held in September, 1986 but because of the pending case of Shri K.L. Vohra, the trade test could not take place. It is also averred that the applicant represented that he should be considered for promotion to the post of Charge man Grade 'B' and to allow him to take the trade test, but the respondents have not considered the claim of the applicant and hence the present application has been filed.

3. The respondents in their reply rebutted the claim

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of the applicant on the ground that the applicant was called for suitability test for the post of Mistri Mono on 13.12.1989, but he was not found suitable. The allegation of the applicant that the result was manipulated in favour of respondent No.4 has been denied. It is further denied that the applicant exercised option for further promotion to the post of Chargeman Grade 'B'. It is further stated that no post of Chargeman/Mono fell vacant to be filled by promoting reserved candidates from SC/ST from departmental quota and as such, the applicant could not be considered for long to work against the said post. On the other hand, the applicant has been promoted as Master Craftsman w.e.f. 1.12.1991, on permanent basis after taking option from him. Thus the applicant has the channel of promotion from the post of Mono Key Board Operator Grade I to the post of Mistri/Mono. However, there was no post of Chargeman Grade 'B' in Mono Section, which could be given to the applicant, so there was no question of his further promotion to the post of Chargeman Grade 'A' and further to the post of Foreman. The applicant had not qualified the suitability test for the post of Mistri and as such, he is not eligible for the post of Chargeman Grade 'B', so Shri A.N. Bhagat, respondent No.4 was promoted as Chargeman Grade 'B' in Mono Section w.e.f. 17.2.1992. According to the channel of promotion, the post of Chargeman Grade 'B' is to be filled up from amongst the Mistries and the applicant did not work as Mistri and hence could not be

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senior to respondent No.4 in the said post. In these circumstances, the applicant had not been called for selection to the post of Chargeman Grade 'B' in September, 1986.

Respondent No.4 is not junior to the applicant in the grade of Mistri, which is feeder post for promotion to the post of Chargeman Grade 'B'. Respondent No.4 qualified the test held on 18.1.1990 for the post of Mistri in which the applicant failed and as such, he got promotion as Mistri.

4. In the rejoinder filed by the applicant to the reply, he has reiterated the averment made in the application stating that he is duly entitled to the benefit of promotion to the post of Chargeman Grade 'B' w.e.f. 27.5.1991 in view of the order dt.17.10.1990. It is further stated that respondent No.4 has been posted as Chargeman Grade 'B' by the order dt.4.4.1992 without holding any trade test. The applicant, however, has not been posted as Mistri w.e.f. 17.2.1992, but the relief claimed by the applicant still remains because Shri A.N. Bagat has been illegally and wrongly shown senior to the applicant. It is also stated that the respondents had asked for option from the applicant as Craftsman in the initial stage, but the applicant has still the grievance of not being considered for promotion to the post of Chargeman Grade 'B'.

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5. We have heard the learned counsel for the parties at length and have gone through the record of the case. The copy of the Railway Board's letter dt. 17.10.1990 is on the subject of Master Craftsman and avenue of promotion thereof. It is laid down after a decision in the JCM meeting that persons fitted in the grade of Master Craftsman may also be considered for further promotion to supervisory post along with other skilled grade artisan staff as per the modalities envisaged in the Board's letter dt. 29.9.1987. It was also clarified in that letter that by only on their opting for and getting fitted in the grade of Master Craftsman, Skilled Grade I Artisans fitted in the grade of Master Craftsman will not gain any seniority vis-a-vis others who opt to continue as skilled grade artisans or fail to qualify as Master Craftsman. In other words, the relative position in the integrated seniority list prepared for consideration for promotion as Chargeman Grade 'B' or Mistri as the case may be, in terms of para 2(a) and 2(c) of Ministry's letter dt 29.9.1987 shall not be disturbed by reason only of one fitment in the grade of Master Craftsman. By virtue of this circular of the Railway Board, the claim of the applicant is, that the official respondents have erred in not considering the applicant for the post of Chargeman Mono Grade 'B' w.e.f. 27.5.1991. His contention is that he cannot be denied that promotion irrespective of the fact

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that he is posted as Master Craftsman. In the rejoinder, it is admitted by the applicant that he has now been posted as Mistri w.e.f. 17.2.1992, but the grievance which still persists with the applicant is that he is senior to respondent No.4. However, the respondents have clearly stated in the reply that the applicant was called for suitability test for the post of Mistri/Mono on 13.12.1989, but he was not found suitable. This fact is not denied by the applicant. The seniority list as of 1985 of the grade of Rs.330-480 (Annexure P6) shows that the applicant is at Serial No. 2, while respondent No.4 is at Serial No.6. The seniority list in the pay scale of Rs.1400-2300 shows the name of the applicant in the seniority list of Craftsman in the grade of Rs.1400-2300 and the name of respondent No.3 is in the seniority list of Mono Mistri in the grade of Rs.1400-2300. The contention of the learned counsel for the applicant is that the applicant was appointed in the year 1963 while respondent No.4 was appointed in 1978. Further promotion to Grade I of the applicant took place in August, 1978 while that of respondent No.4 in March, 1984 and on the basis of this criterion, the applicant alleges that he is senior to respondent No.4 and a better claim for promotion to the post of Chargeman Grade 'B'. The respondents specifically stated that the applicant has exercised any option for further promotion to

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the post of Chargeman Grade 'B' in the year 1986-87. This contention is further supported by the fact that no post of Chargeman/Mono fell vacant in that year. In view of this, the applicant was not allowed to work on that post. On the basis of the option given by the applicant, he was promoted on another channel as Master Craftsman w.e.f. 1.12.1991. The applicant had not qualified the suitability test for the post of Mistri, which was feeder post for promotion to the post of Chargeman Grade 'B' in the Mono Section, so the applicant is not eligible for the post of Chargeman Grade 'B'. Since the applicant did not work as Mistri, so he could not be senior to respondent No.4 in the said post. Respondent No.4, however, qualified the said test held on 18.1.1990 and got promotion as Mistri and he has been subsequently promoted as Chargeman Grade 'B' w.e.f. 4.4.1992. In the cadre where the next promotion is on the basis of the selection, the seniority cannot be reckoned from the date of entry into service or by promotion to various grades in the cadre. Since the applicant has failed in the suitability test in 1989 and respondent No.4 passed the trade test of Mistri in January, 1990, so respondent No.4 cannot be said to be promoted out of turn to the post of Chargeman Grade 'B'. According to the channel of promotion, the post of Chargeman

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Grade 'B' is to be filled up from amongst the Mistries and the applicant did not work as Mistri and so he could not be said to be senior to respondent No.4 in the said post.

6. In view of the above facts and circumstances, we find that the present application is totally devoid of merit and is dismissed leaving the parties to bear their own costs.

J. P. SHARMA
(J.P. SHARMA)
MEMBER (J)

11.12.92

(P.C. JAIN)
(P.C. JAIN)
MEMBER (A)