

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No.2279/93

New Delhi, this the 3<sup>rd</sup> day of ~~July~~, 1999

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HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN (J)  
HON'BLE MR.N.SAHU, MEMBER (ADMNV)

Mahendra Pal Singh,  
S/o late Shri Shanker Singh,  
Retd. Permanent Way Inspector Gr.II  
Tundla Junction, N.R.  
(Uttar Pradesh)

Residential address:

Mahendra Pal Singh  
2890, Sant Gali No.4  
Multani Dhanda, Pahar Ganj,  
New Delhi

....Applicant

(By Advocate: Shri G.D.Bhandari)

Versus

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

2. The Divisional Railway Manager,  
Northern Railway,  
Allahabad.

3. Shri purshotam Lal Arora  
P.W.I., Aligarh, U.P.  
N.R.

....Respondents

(By Advocate: None)

O R D E R

BY HON'BLE MR.N.SAHU, MEMBER (ADMNV)

The prayer in this O.A. is to quash the order dated 27.1.92 whereby the seniority of the applicant has been lowered as a result of which he was superseded and ignored for promotion to P.W.I. Gr.II and also P.W.I. Gr.I.

2. The basic facts are that the applicant was declared medically unfit to work as Permanent Way Inspector on open line. His record of punishment and adverse CRs were perused and he was not considered fit for promotion as P.W.I. in the grade of 1600-2660. He was considered fit for promotion to the post of P.W.I. Grade II in the scale of <sup>only subsequently</sup> ~~1600-2660~~ and accordingly promotion order was issued on 8.8.87. After he was considered fit as P.W.I. Grade-II, ~~xxxxxx~~, the question of arranging his seniority arose. No doubt Shri Purshotam Lal was junior to the applicant in the post of P.W.I. Grade III but he was promoted as P.W.I. Grade-II with effect from 27.5.85 i.e. two years before the applicant's promotion and hence he was made senior in the seniority list of P.W.I. Grade II. As a result of restructuring effective from 1.1.84, Shri Purshotam Lal was promoted as P.W.I. Grade II from 1.1.84 but since the applicant was not eligible for the post of P.W.I. Grade II, he was not promoted at that time. The applicant did not challenge the decision of the respondents in not declaring him fit for promotion to the post of P.W.I. Grade II in 1984. He cannot, therefore, now question his lower seniority in the higher grade.

3. The applicant retired from service on attaining the age of superannuation with effect from 31.7.92. The post of P.W.I. Grade I was decentralised in 1987 and

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selection to that post was stayed by the C.A.T. in O.A.435/92 - G.N.Mishra vs. UOI. The applicant contended that adverse entries were not communicated to him and his promotion could not be withheld on that account. His grievance is that his promotion to P.W.I. Grade II was due w.e.f. 1.1.84 but the same was withheld and he was promoted only on 8.8.87.

4. No doubt, in the seniority list issued on 24.7.75, the applicant's name appeared at serial no.17 while that of Shri Purshotam Lal at serial no.23 and this position was maintained in 1978 seniority list. In the seniority list of 1982, The applicant's name appeared at serial no.88 and that of Shri Pushotam Lal at serial no. 87. The applicant contends that this has been done without giving him notice. The fact remains that the applicant failed to contest his supersession in 1984 or the seniority list in 1982. He cannot now question the same because the present seniority list issued on 30.4.91 is in continuation of the earlier seniority list. The applicant might be far senior when he was appointed on 9.8.60 to Shri Purshotam Lal but having been promoted, Shri Purshotam Lal gained an edge over the applicant ~~as per the date of promotion earlier to the applicant~~ in the higher grade. We do not find any infirmity in giving Shri Purshotam Lal higher seniority. As a result, we do not find any force in the contention of the applicant because he did not contest any of the earlier seniority lists nor questioned his supersession earlier.

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5. It clearly transpired that respondent no.3 (Shri Purshotam Lal) had already been given higher seniority as early as in 1982 by annexure A-5 order. Therefore, the applicant could not raise this issue regarding 1982 seniority in this O.A. The O.A. is barred by limitation. Since he retired on 31.7.92 and there was no perceptible adverse affect to him by the 1992 seniority list, no purpose will be served by contesting this issue at this stage. This O.A. is also barred by limitation because the reasons for delay in contesting 1982 seniority list are not convincing and acceptable.

The O.A. is dismissed. No costs.

  
( N. Sahu )  
Member(Admnv)

  
( A.V. Haridasan )  
Vice Chairman(J)

/dinesh/