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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No.1010/93

Date of decision: 27.08.1993.

Shri A.K. Khanna

...Petitioner

Versus

Union of India through the  
General Manager, Northern  
Railway, New Delhi & Anr.

...Respondents

Coram: -

The Hon'ble Mr. I.K. Rasgotra, Member (A)  
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri Jagjit Singh, Counsel.

For the respondents

Shri Rajesh, Counsel.

1. Whether Reporters of local papers may be allowed to  
see the judgement? *No*
2. To be referred to the Reporter or not? *Yes*

*I.K. Rasgotra*  
(I.K. Rasgotra)  
Member (A)

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(Judgement of the Bench delivered by Hon'ble  
Mr. I.K. Rasgotra, Member (A))

The case of the petitioner is that he was promoted as Research and Development Inspector (RDI) in the pay scale of Rs.1600-2660 on ad hoc basis against one of the three vacancies reserved for scheduled castes (SC)/ scheduled tribes (ST) candidates, as no SC/ST candidate was available vide order dated 30.5.1989. The said order stipulated that "The above arrangements are on adhoc basis pending approval of Railway Board for dereservation of points reserved for SC & ST." The petitioner was also confirmed vide order dated 29.1.1990 that the petitioner alongwith some others "who have been promoted in grade 1600-2660 (RPS) on adhoc basis pending dereservation from Railway Board are now regularised in grade Rs.1600-2660 (RPS) w.e.f. 30.5.89 respectively as Railway Board vide their letter No.89-E(SCT)II/53/16 dated 24/11/89 have

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conveyed their approval for dereservation of 3 vacancies of SRDI in grade Rs.1600-2660 (RPS), reserved for SC&ST." Thereafter the respondents issued the seniority list in the said grade indicating that the petitioner was promoted and regularised in the grade of Rs.1600-2660 w.e.f. 30.5.1989. The said confirmation, however, was modified by the respondents vide their letter dated 28.4.93 stating that "The date of regularisation of promotion of S/Shri A.K. Khanna and Shri K.K. Sardana as SRDI grade Rs.1600-2660 (RPS) shown as 30.5.89 and 5.6.89 respectively vide this office notice of even number dated 14.2.1990 may be read as 24.11.89." The short issue involved in this case is whether the date of promotion and regularisation in the case of the petitioner should be 30.5.1989, when he was promoted on ad hoc basis, pending approval of the Railway Board or should it be 24.11.1989 - the date on which the approval of the Railway Board was received for dereservation of the vacancies reserved for SC/ST candidates. The relief prayed for by the petitioner is that the respondents be directed to place the applicant in seniority list on the basis of date of promotion being 30.5.1989 in the grade of Rs.1600-2660 with all consequential benefits.

We have heard the learned counsel for both the parties and considered the matter carefully. Neither the learned counsel for the petitioner nor that of the respondents have been able to show us any rule on the subject. While the learned counsel for the petitioner asserted that the date of promotion has to be taken as 30.5.1989, as the vacancy arose on that date and the promotion was made on ad hoc basis only because for dereservation the approval of the Railway Board was

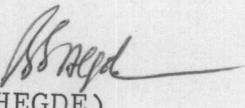
required and that is why the promotion was made, pending the approval of the Railway Board, the learned counsel for the respondents with equal vehemence asserted that the regular promotion can be granted to the petitioner only from the date when the dereservation of the vacancies reserved for SC/ST candidates was approved by the competent authority viz. the Railway Board.

We have carefully considered the submissions made by the learned counsel for the petitioner and the respondents respectively and perused the record. We are of the opinion that it is clear from the pleadings that the petitioner was promoted on ad hoc basis against a long term vacancy, pending approval of the Railway Board for dereservation of point reserved for SC/ST. It is nobody's case that this arrangement was a stop gap arrangement. The vacancy was there. There were also no SC/ST candidates. In the circumstances, there was no alternative but to fill up the posts by a general category candidate. In such a situation when the approval for de-reservation was received from the Railway Board the regular promotion cannot but be related back to the date on which the vacancy arose and the petitioner was promoted against the said vacancy. This happened on 30.5.1989. The date of approval by the Railway Board is not the material date. What is material is that the petitioner was promoted against a long term vacancy which was admittedly reserved for the SC/ST candidates who were not available for consideration for promotion against the said vacancies. This was done, pending the approval of the Railway Board. Once the approval is received it has to be related back to the occurrence of the vacancy and the date of ad hoc promotion for regular promotion. In case the approval to dereservation has not been granted, the ad hoc arrangement would have been terminated. This, however, is not the situation before us. Admittedly the approval for dereser-

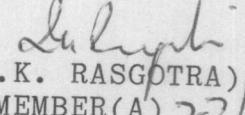


vation was conveyed by the Railway Board. We see no reason not to relate back the regular promotion to the date of ad hoc promotion of the petitioner. We are fortified in our view, as above by the fact that the carry forward vacancies for SC/ST are related to the **year of recruitment** and not to the year in which the vacancies arose in accordance with the Ministry of Home Affairs Office Memorandum No.1/4/64/SCT(1) dated 2.9.1964.

In view of the facts and circumstances of the case the O.A. is allowed and the respondents are directed to deem the date of regular promotion of the petitioner w.e.f. 30.5.1989. The petitioner shall also be entitled to consequential promotion, if he is found fit for the same in accordance with the rules. No costs.

  
(B.S. HEGDE)  
MEMBER(J)

San.

  
(I.K. RASGOTRA)  
MEMBER(A) 27/8/93