

RESERVE

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Nov.
DATED: THE 6TH DAY OF OCTOBER 1997

CORAM: HON'BLE DR. R.K.SAXENA, J.M.
HON'BLE MR. D.S.BAWEJA, A.M.

ORIGINAL APPLICATION NO.1055 OF 1996

Munni Lal aged about 56 years son of
Shri Dujai, resident of 173/121 C/3A,
Bhola Ka Pura, Sulem Sarain, Allahabad.

.... petitioner

C/A Shri R.K.Nigam, Adv.

Versus

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway,
Allahabad Division, Allahabad.
3. Additional Divisional Railway Manager,
Northern Railway, Allahabad Division, Allahabad.
4. Sri Om Prakash Mishra, the then Senior
Divisional Personnel Officer now Senior Electronic
Data Processing Manager, Northern Railway,
Allahabad Division, Allahabad.

... Respondents

C/R Shri S.K.Jaiswal, Adv.

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ORDER

BY HON'BLE DR.R.K.SAXENA, J.M.-

This petition is filed by Munni Lal to seek the relief that the respondents be commanded to release the promotion of the petitioner as Office Superintendent Grade-II with effect from 1.1.1984 and as Office Superintendent Grade-I with effect from 25.9.1986 along with consequential benefits.

2. Briefly stated the facts of the case are that the applicant was initially appointed as Lower Division Clerk under the respondents and was promoted upto the post of Head Clerk in the grade of Rs.1400-2300. It is stated that the scheme of restructuring of the cadre was introduced by the Railway Board and those posts were to be identified and filled up through the modified selection. A list of 35 persons who were within the zone of consideration, was prepared and the applicant was placed at serial no.6 therein. By an order dated 18.2.1985, a panel of 11 persons was prepared. The name of the applicant was not shown in the said panel. It is contended that there were 13 vacancies but of them two posts were kept vacant and only 11 posts were filled in. It is also stated that the applicant was senior to one Shri M.R. Ghosal but he was not considered whereas the juniors were promoted. The applicant allegedly made several representations but with no result. Hence this O.A. has been filed with the aforesaid relief.

3. The respondents have contested the case on several grounds. First ground is that the O.A. is barred by limitation because the promotions for the post of Office Superintendent Grade-II and Grade-I have been claimed with effect from 1.1.1984 and 25.9.1986 whereas this O.A. was filed on 25.9.96. It is, therefore, stated that it is highly time-barred.

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4. The respondents also averred that the petition has been filed on frivolous allegation of victimisation which is not a fact. It is stated that neither any list of the persons who were within the zone of consideration, was prepared nor was it circulated. It is also averred that the seniority list was prepared in which the applicant who got accelerated promotion in the grade of Rs.425-700 on the post of Head Clerk, was shown at serial no.6. So far as the promotion of 11 other persons, as is stated in the O.A., is concerned, the respondents have submitted that those 11 persons who were placed in the panel, were placed in pursuance of an interim order passed by the High Court in the Writ Petition of Kashi Ram Khanna v. Union of India and others. The said stay order was granted on 7.11.1984 against promotion of Scheduled Caste and Scheduled Tribes candidates beyond the prescribed quota of 15% and 17½% for S.C. and S.T. candidates respectively. It is pleaded on behalf of the respondents that one Kamal Kishore was scheduled caste candidate and was senior to the applicant, was placed in the panel. The respondents have also stated that there is no merit in the contention of the applicant and thus the O.A. deserves dismissal. No rejoinder affidavit has been filed. The matter was pending at the stage of admission and when the pleadings were completed, it was fixed for final hearing. Several opportunities were given to the applicant but no R.A. was filed and, therefore, he was debarred from filing any R.A. The matter was, however, listed for final hearing at the stage of admission.

5. The order of the case being listed for final hearing, was passed on 8.5.1997 and the matter was adjourned to 16.7.97 but on that date none of the parties appeared, it was adjourned to 28.8.1997. It was again taken up but the learned counsel for the applicant failed to appear. We, therefore, heard Shri S.K.Jaiswal counsel for the respondents and perused the record.

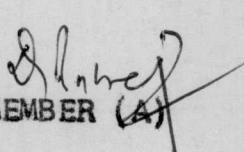
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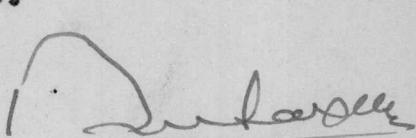
6. The main question in the case is whether the applicant is entitled to the promotion of Office Superintendent Grade-II and Grade-I with effect from 1.1.1984 and 25.9.1986; and whether O.A. was barred by limitation. There is no dispute that the applicant has come with the relief that his promotion to the post of Office Superintendent Grade-II and Office Superintendent Grade-I be directed to be given with effect from 1.1.1984 and 25.9.1986 respectively. There is also no dispute that the present O.A. was filed on 25.9.1996, i.e. after 12 years from the date when the promotion for the post of Office Superintendent Grade-II is claimed ^{and} after 10 years ^{Grade-I} from the date from which the promotion of Office Superintendent is claimed. No explanation of this delay has been offered by the applicant. We, therefore, find that there is delay of 12 and 10 years from the dates when the promotion for the post of Office Superintendent Grade-II and Grade-I is claimed. The O.A. is, therefore, no maintainable.

7. The learned counsel for the applicant has not put in appearance in the case after it was listed for final hearing. Thus no arguments could be advanced to establish as to how the applicant was entitled to be promoted on the posts of office Superintendent Grade-II and Grade-I with effect from 1.1.1984 and 25.9.1986 respectively. The respondents as is pointed out earlier, have clearly stated that the panel of 11 persons was prepared in the light of the interim order passed by the High Court. It is also contended that Kamal Kishore was senior to the applicant and was a Scheduled Caste candidate. He was, therefore, considered for promotion. The counter affidavit which has been filed on behalf of the respondents ~~that~~ denying the claim of the applicant, could not be controverted by the applicant by filing any rejoinder. In view of these facts, we find no

substance in the claim of the applicant.

8. Having considered the averments of the parties in the case and the question of limitation raised by the respondents, we come to the conclusion that the O.A. is not only barred by limitation but also ^{is} found devoid of merits. Thus it stands dismissed. No order as to cost.


MEMBER (A)


MEMBER (J)

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