

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 659 of 1996

Dated : this the 22nd day of September, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, V.C.
HON'BLE MR. D.R. TIWARI, MEMBER (A)

Narendra Nath Srivastava,
retired Chief Inspector of Works,
S/o Late Tribhuwan Nath r/o 450/1
Kailash Puri, Mughal Sarai

... Applicant.

Counsel for the applicant || Shri S.K. Dey and
Shri S.K. Mishra

|| Versus ||

- 1- Union of India through General Manager,
Eastern Railway, Calcutta.
- 2- Divisional Railway Manager,
Eastern Railways, Mughal Sarai.
- 3- Senior Divisional Personnel Officer,
Eastern Railway, Mughal Sarai.

... . . . Respondents.

Counsel for the respondents. || Shri A.K. Gaur

|| O R D E R ||

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this O.A. under section 19 of Administrative Tribunals Act, 1985, applicant has prayed to quash the order dated 30.6.1995 (Annexure A-I) by which his request for proforma fixation of his salary of Chief Inspector of Works from 30.06.1995 has been refused.

2. The facts of the case are that the applicant was serving as Inspector of Works, Grade I at Mughal Sarai. He was considered for promotion and his name was included in the panel of Chief Inspector of Works in pay scale of

Rs.2375-3500/-. He was directed to join at promoted post at Asansol vide order dated 21.4.1992. The applicant, however, made request for being accommodated ~~as~~ at Mughal Sarai on account of family circumstances. The application of the applicant was pending. In the meantime he was served with two memorandums of charges for major penalty dated 26.6.1992 and 01.7.1992. The charge against the applicant was regarding shortage of stock. The disciplinary proceedings took 30 months time to conclude. The applicant was punished on conclusion of disciplinary proceedings. The Disciplinary Authority ordered for recovery @ Rs.1,000/- per month from the salary of the applicant which was continued till his date of superannuation i.e. 31.7.1995 and the rest of Rs.16,902.00/- was recovered from the retiral benefits of the applicant. Thus, it is clear that during entire period the punishment continued against the applicant. After retirement he made an application for proforma fixation and seniority. There is no dispute, ^{that} ~~whether~~ the applicant has been given seniority by order dated 06.4.1995 (Annexure AIV) but the proforma fixation has been refused.

3. Considering the facts and circumstances we do not find any error in the order.

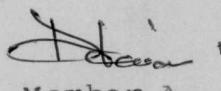
4. Shri S.K.Dey, learned counsel for the applicant relied on para 3.6 of the letter dated 23.2.1993, which provided instructions with regard to promotion from Group 'D' to Group 'C' and from Group 'C' to Group 'B' to selection and non-
^{selection} posts. Para 36 which ~~is~~ ^{is} material for the controversy is being reproduced below :

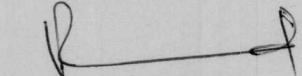
"..If the disciplinary proceedings against the person under suspension etc. for whom a vacancy has been reserved, is finalised within a period of 2 years of the approval of the provisions panel in the case of promotions to selection posts or at any point of time in the case of promotion to non-selection posts and if such a person is inflicted only a minor penalty, he should automatically be assigned the position in the selection panel suitability list and his empanelment/ enlistment accounted and he may be promoted in his turn. If his junior has already been promoted before interpolation of his name in the selection panel/ suitability list, they should be promoted by reverting the junior-most person if necessary and his pay on promotion should be fixed under the normal rules."

5. From perusal of para 3.6 it is clear that the applicant, though, is entitled for seniority but he was not entitled for proforma fixation of salary, ^{In view of} ~~In~~ the facts that the recovery of the amount of ~~penalty~~ continued from the applicant up to the date of superannuation.

6. In the facts and circumstances, the order ^{does not} suffer from any illegality calling for our interference. The O.A. is accordingly dismissed.

7. There shall be no order as to costs.


Member A


Vice-Chairman

Brijesh/-