

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 28th day of January, 2000.

Original Application no. 1126 of 1996.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member
Hon'ble Mr. M.P. Singh, Administrative Member,

Vineet Kumar Srivastava,
S/o Shri J.N. Lal Srivastava,
R/o 185 Pakki Bandh Gate,
Near Durga Wadi Humaunpur,
South Gorakhpur.

... Applicant.

C/A Shri B. Tiwari.

Vers us

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. G.M. (P), N.E. Railway, Gorakhpur.
3. Ram Singh, Manager Printing & Stationary, N.E. Railway, Press Gorakhpur.
4. Waris Ali
5. Ram Ratan

Both working under Superintendent Printing and Stationary Railway Press Gorakhpur.

... Respondents.

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C/R Shri W.K. Goel

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O R D E R

Hon'ble Mr. M.P. Singh, Member-A.

In pursuance of order dated 30.10.1987 the applicant was promoted to the post of Chargeman 'B' on regular basis in the pay scale of Rs. 1400-2300 with effect from 12.10.1987. Shri Ram Ratan and Shri Waris Ali were also promoted to the post of Chargeman 'B' with effect from 11.08.1989 and 01.08.1990 respectively. The post of Chargeman 'B' and 'A' have been restructured vide Railway Board's letter dated 27. 01.1993. According to the applicant Shri Ram Ratan and Shri Waris Ali, who were junior to the applicant were promoted as Chargeman 'A' in the scale of Rs. 1600-2660. The applicant had represented to the General Manager (P), N.E. Railway, Gorakhpur on 02.02.1996. According to him, General Manager (P) had passed an order dated 20.02.1996 to the effect that the applicant should be promoted as Chargeman 'A' with effect from 01.03.1993. Although specific order has been passed by the Competent Authority, the applicant has not been promoted to the post of Chargeman 'A' by respondent no. 3. It is alleged that the respondent no. 3 is interested to promote some other persons who are related to him.

2. The applicant has sought the relief for issuing direction to the respondents to implement office order dated 20.02.1996 and promote him to the post of Chargeman 'A' w.e.f. 01.03.1993 giving him benefit of seniority,

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pay and allowances as permissible under rules.

3. The respondents in their counter affidavit have stated that the applicant is working in the Process Section of the press whereas Shri Waris Ali and Shri Ram Ratan are working in Binding Section and Machine Section respectively. According to them, promotion of Shri Waris Ali or Shri Ram Ratan in the pay scale of Rs. 1600-2660 has no relation with the promotion of the applicant as the seniority in the grade of Chargeman 'B' is section wise. It is wrong to allege that either Shri Ram Ratan or Shri Waris Ali was junior to the applicant. Both Shri Waris Ali and Shri Ram Ratan have been promoted to the post of Chargeman 'A' ⁱⁿ their respective sections, i.e. Binding Section and Machine Section. They have also stated that the respondent no. 3 is not interested in any other person for promoting him to the post of Chargeman 'A'. According to them principle of next below rules is not applicable in the present case. The applicant is not entitled for any promotion on the basis of order dated 20.02.1996 issued by General Manager (P). The printing and Stationary, N.E. Railway Press is an independent organisation. It is wrong to allege that respondent no. 3 by not granting promotion to the applicant is acting against his superior authorities.

4. The applicant has stated that whole press constitutes as a single unit. The respondents in their suppl. affidavit have stated that as per General Rules 107 (a) (Channel of promotion) of section 1 pertaining

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to Rules for recruitment, training and promotion of staff in Railway Printing Press, there are different sections in the Railway Press such as Mechanical Composing, Hand Composing, Proof Reading, Stores, Machine, Binding etc. It is apparent from channel of promotion that various sections in the press are independent from each other without there being any provision for transferring of any individual working in a particular section to other section. In press, an employee who is initially appointed directly through Railway Recruitment Board/Railway Service Commission, can be transferred to other section as Chargeman 'B'. According to the respondents neither the applicant nor Shri Ram Ratan or Shri Waris Ali was appointed directly as Chargeman 'B'. They have reached to the stage of Chargeman 'B' by promotion in their respective sections only.

5. During the course of hearing of the aforesaid application before the Tribunal the applicant produced 3 transfer orders to repel the case of the respondents that no transfer is permissible under the rules from one section to another, except in case of directly recruited Chargeman 'B'. The Tribunal directed the respondents to file a suppl. reply explaining the transfer orders relied upon by the applicant. The respondents in their suppl. written reply inter alia stated that as per order dated 30.12.1995 the lien of Shri Vineet Kumar Srivastava as well as Shri Munnar was maintained in their parent sections. They have also stated that similarly Shri Basu Malik has been transferred from T.P. Section to Process Section where his services were felt necessary. Later on, he has been transferred from Process Section to his parent section i.e. T.P. Section and he has no claim for his further promotion in Process

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Section. The plea taken by the respondents that their lien was maintained in parent section for the purpose of Promotion is not tenable. The lien of a government servant is kept in his parent department/section to meet the contingency of his reversion from a higher post which may be held by him in other Department/Section. In such a situation, he is reverted back to a post in his parent cadre where his ^{is} lien maintained. In any case, the purpose of maintaining lien in his parent department is not to debar him for further promotion or holding a higher post in other section/department on deputation. The plea taken by the respondents that promotion from Chargeman 'B' to 'A' has to be made as per General Rules 107 (a) (Channel of Promotion) of section-1 is also not correct. According to paragraph 4 of the Railway Board's letter dated 27.01.1993 (annexure SRA-2), the posts covered by the restructuring orders are to be filled up by the modified procedure. This letter provides that group 'C' and 'D' categories of posts are to be restructured in accordance with the revised percentage. These orders will be applicable on the regular cadres of the Open Line Establishment including workshops and production units and will include rest giver and leave reserve posts. Paragraph 4.3 of this letter states that all vacancies arising from 2.3.93 will be filled by the normal selection procedure. According to paragraph 5, the minimum eligibility period for the first promotion for filling up these vacancies would be reduced to one year as a one time exception. Thereafter the normal minimum eligibility condition of 2 years will apply.

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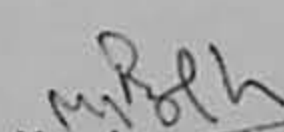
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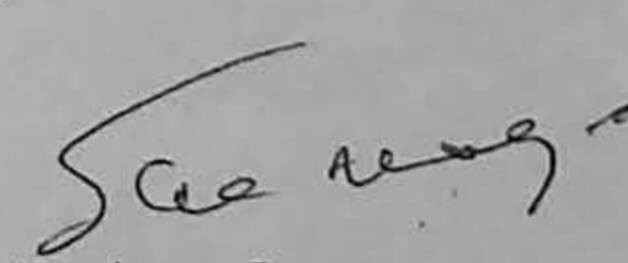
6. It is seen from the provisional seniority list as on 01.04.1990 (annexure A 3) and the office order number 35 (annexure A 2) that Shri Vineet Kumar Srivastava is senior to Shri Ram Ratan and Shri Waris Ali. The date of appointment of Shri Vineet Kumar Srivastava to the grade of Chargeman 'B' (on regular basis) is 12.10.1987, whereas the dates of appointment of Shri Ram Ratan and Shri Waris Ali to that grade are 11.08.89 and 01.08.90 respectively .

7. It is also observed from the records that the General Manager (P), N.E. Railway vide his letter dated 20.02.96 has asked the Manager Printing and Stationary Press to promote Shri V.K. Srivastava with effect from 01.03.93 under the Restructuring Scheme, The respondents have taken the plea that Printing and Stationary, N.E. Railway Press is an independent organisation and Respondent no. 3 is not acting against his superior authorities. In other words the higher Railway authorities have no control over the Press. This plea of the respondents is not acceptable.

8. Heard Shri B. Tiwari learned counsel for the applicant and Shri V.K. Goel learned counsel for the respondents.

9. In the facts and circumstances of the case mentioned above, the O.A. is allowed and the respondents are directed to implement the office order dated 20.02.96 (annexure A 7) by promoting the applicant to the post of Chargeman 'A' from 01.03.93 with all consequential benefits within a period of three months from the date of communication of this order. No order as to costs.


Member-A


Member-J

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