

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 17th day of April, 2002.

Original Application No. 43 of 1998.

CORAM :-

Hon'ble Mr. C.S. Chadha, A.M.

Hon'ble Mr. AK Bhatnagar A.M.

Sukhraj Bahadur Son of Sri Nand Kumar

Resident of C/o Sri Nitya Nand,

B/202, Avas Vikas Colony,

Shahpur, Gorakhpur.

(Sri B. Tewari, Advocate)

• • • • • Applicant

Versus

1. Union of India through  
Secretary (Establishment)  
Railway Board, New Delhi.
2. General Manager, North Eastern  
Railway, Gorakhpur.
3. Chief Personnel Officer,  
North Eastern Railway,  
Gorakhpur.
4. Chief Administrative Officer,  
Construction, North Eastern Railway,  
Gorakhpur.
5. Chief Signal Telecommunication  
Engineer, Construction, North Eastern  
Railway, Gorakhpur.

(Sri V.K. Goel, Advocate)

• • • • • Respondents

O R D E R (O\_r\_a\_l)

By Hon'ble Mr. C.S. Chadha, A.M.

The case of the applicant is that he was appointed as a regular Khalasi w.e.f. 31-10-1979. However, on 10-11-1998 he was sent on temporary deputation to the Broad Gauge

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Organisation for promotion as Tracer and on joining that department, he was promoted w.e.f. 25-11-1983 on ad hoc basis as a Tracer in the scale of Rs.260-430. His claim is that juniors to him were promoted as Assistant Draftsmen but his claim was overlooked and that he made several representations from time to time which were also duly recommended by superior officers vide Annexures-8, 9 and 10 all of which stated that his claim was being overlooked for no fault of his. Ultimately vide the impugned order dated 02-12-1996 he was directed to revert to his parent deptt. in the scale of Khalasi in which he had lien in his parent department. He has challenged the reversion to the parent deptt. on the ground that he had worked for a long period in a higher scale. In support of his claim he has cited several rulings. In the Principal Bench judgement in the case of Hemraj and Others in the OA No.1751 of 1988 decided on 27-9-1996 it was held that if appointee to a senior post continues for a long time, in appropriate cases, it is open for the government to regularise their services by making appropriate provisions consistent with the reservation policy of the State. We are afraid that this does not give any support to the case of the applicant as that case related to directions to the government to make adequate provisions for the promotion of such persons. The question is whether he has a lien in the department in which he is working and, therefore, a claim to promotion. He was sent on deputation to the Broad Gauge Organisation and given ad hoc promotion in that department. It was open to the borrowing department to return his services to the parent department when his services were no longer required. The main grouse of the applicant is that after having served for such a long



time, he had not received any regular promotion. He has also cited the ruling in Raghunath Vs. Secretary State of Police Department, State of Bihar, AIR 1988 S.C. P. 1033 wherein the Apex Court held that every person should get two opportunities for promotion failing which he begins to stagnate. We have no doubt that their Lordships in the Apex Court gave directions to the government to provide opportunities for promotion. That would be applicable where no such opportunity existed. In the present case opportunities are available. The only grouse of the applicant is that he has not been considered for promotion. Strictly speaking a person is entitled to promotion in his parent department, even when on deputation, when his juniors in the parent deptt. get promotion. During the course of arguments it has been brought to our notice that the lien of the applicant has not been maintained even in the parent department and, therefore, he has been deprived of a promotion even in the parent department. In the normal course of events his parent department should maintain a seniority list and from the date of his juniors in the parent department are considered for promotion his case should also be screened and he should also get promotion, if found fit and his salary fixed accordingly even on deputation. It appears that he kept on making representations not only to his department but only to the department where he was on deputation.

2. In view of the above, we ~~have~~ <sup>do</sup> feel that the ends <sup>do</sup> ~~interests~~ of justice will be met if he is permitted to make a fresh representation to his parent department authorities to the effect that his juniors in his department when promoted should render him eligible

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for consideration for promotion from the same date. We, therefore, direct that although this OA has no merits and reversion to the parent unit is quite legal and valid, he should receive justice by being considered for promotion, if his juniors have been so considered in his own parent department. If any such seniority list has not been maintained, we direct that the parent department should constitute a seniority list of the parent department showing the correct position of the applicant vis-a-vis his juniors and then consider his case for promotion from the date his juniors were promoted, in the parent department. The OA is disposed of with the above directions with no order as to costs. This direction shall be implemented within four months from the date of the order.

*Ah*  
Member (J)

*Gawie*  
Member (A)

Dube/