

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 18th day of March 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. A.K. BHATNAGAR, J.M.

O.A. No. 551 of 2001.

Lal Behari Yadava s/o Kanhai Yadava, working as Section  
Engineer, Heat Treatment Shop, North Eastern Workshop,  
Gorakhpur.....

..... Applicant.

Counsel for applicant : Sri S.K. Om.

Versus

1. Union of India through General Manager, N.E. Railway,  
Gorakhpur.
  2. Chief Personnel Officer, N.E. Railway, Gorakhpur.
  3. Chief Workshop Manager (Personnel), N.E. Railway, Gorakhpur.
  4. Chief Workshop Engineer, N.E. Railway, Gorakhpur.
- .....

..... Respondents.

Counsel for respondents : Sri D.S. Shukla.

ORDER (ORAL)

BY HON. MR. S. DAYAL, A.M.

This application has been filed for setting aside order dated 6.9.99 and 6/7.2.01 passed by the respondents. A direction is sought to the respondents to consider the temporary post of Dy. Shop Superintendent for the purpose of restructuring and promoting the applicant to the post of Shop Superintendent. Consequential relief is also sought.

2. The case of the applicant is that the applicant was working as Chargeman A and was promoted as Dy. Shop Superintendent now known as Section Engineer w.e.f. 12.12.86. The Railway Board issued order dated 27.1.93 for restructuring w.e.f. 1.3.93 in all categories. There was an increase consequently in percentage of post in heat treatment shop and the post of Shop Superintendent, which is now known as Senior Section Engineer, was increased to 17% and the post of Dy. Shop Superintendent was enhanced to 28%, in place of 10% of

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Shop Superintendent and 27% of Dy. Shop Superintendent prevailing before 27.1.93. It is claimed that the cadre strength of Supervisor should be treated as 9 posts out of which five existed in North Eastern Railway of Gorakhpur and three existed in Izatnagar workshop. In all six posts existed in Gorakhpur of which five were shown as permanent and one as temporary. It is claimed that in Book of sanction five were shown as permanent and one post was shown as temporary. It is claimed that the temporary post was created by matching surrender of one permanent post of Chargeman 'B' and one temporary post of semi skilled and one post belong to heat treatment trade. It is claimed that restructuring was to take place for both permanent and temporary posts. It is claimed that if 9 posts of Dy. Shop Superintendents were counted, the total strength of Shop Superintendent comes to 1.53 post which should have been rounded up to two posts. The respondents have calculated the percentage on the total strength of 1.36. It is claimed that the respondents have even for fraction of it have rounded it to the next higher number in case of tool room, Smithy and Paint. Similar treatment should have been given to the post of Shop Superintendent also. It is contended that since the temporary post was in existence on 1.4.93 it should have been counted for arriving at number of post of Shop Supdt. The applicant has also mentioned that the claim of the respondents to abolish the post in 1985 was not true.

3. We have heard the argument of Sri S.K. Om for applicant and Sri D.S. Shukla for the respondents.

4. There are three issues which arise here. The first of these is whether the applicant can get the benefit of promotion if a fresh assessment is made as far as restructuring is concerned. Even if it is assumed that the restructuring done in 1993 was not correct, the posts will now have to be computed on the basis of present position. Only 1.36 posts could have been taken as available for computing the posts of Shop Superintendent, because it is applicant's own statement

in paragraph 5 of the affidavit that a temporary post of Dy. Shop Superintendent was in existence on 1.4.93 but it expired in 1997. Counsel for the applicant has himself referred to Annexure No.5 of the O.A. in which he has shown that one post in heat treatment shop in the scale of Rs.2000-3200 was abolished on 2.9.97. We have seen the order dated 27.1.93. The order stipulate that they relate to regular cadres of the open establishment in workshop and production units. Ex-cadre posts and work charged posts have been excluded from computation for the purpose of restructuring. There is no mention of temporary post and it can be assumed that temporary posts should have been considered. They were not considered at an appropriate time and the applicant has raised this issue before us after eight years. Counsel for the applicant claims that applicant in the meanwhile kept on representing to the respondents. He represented on 10.7.93 claiming that there should have been two posts of Shop Superintendent, two posts of Dy. Shop Superintendent, two posts of Chargeman I and three posts of Chargeman II taking nine posts as the number which was to be restructured. This representation was replied on 29.9.94 mentioning that there was five permanent posts in Gorakhpur and three posts in Izatnagar and thus, there were eight posts. It has also been mentioned that the period of sanction of Dy. Shop Superintendent post in Gorakhpur had expired in 1985 and, therefore, the said post was not added to five posts in Gorakhpur. The applicant again represented on 14.7.99 to the effect that the restructuring of heat treatment shop done by the respondents was contrary to the spirit of restructuring. The said representation dated 14.7.99 has been replied by letter dated 7.3.01 stating that the competent authority had already decided and no further action was required. Thus, the issue has been re-opened at a belated stage when nine posts do not admittedly exist and any computation of the post of Shop

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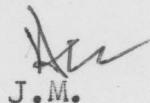
Superintendent would not lead to creation of an extra post of Shop Superintendent at this stage and will not be of any benefit to the applicant.

5. The applicant has raised a second issue based on the fact that tool room, smithy and paint shops had been given an extra post by taking the next higher round figure when the computed number with fraction was 11.1 which was raised to 12 post. Similarly, in smithy and paint 10.36 posts were raised to 11. We have considered this contention of the applicant. We find that the computation given in statement annexed to Annexure 6 of the O.A. shows that out of four fractions only one was upgraded and other fractions, if added, would come to one or more. This is not the case in HTS where benefit of all the fractions has been given to chargeman 'B' and 2.40 has been increased to three. Whether the said benefit should have gone to Shop Superintendent is a matter which falls within discretion of the respondents and matter which does not warrant our interference at this stage especially when the post of Dy. Shop Superintendent, which was temporary, is not existing any more.

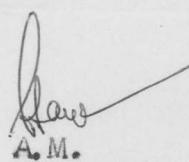
6. The third issue as to whether by restructuring the number of Shop Superintendent post should be increased to two and the applicant be given benefit from a retrospective date is also an issue which does not require our intervention at this stage.

7. We, therefore, find that the application has no merit and the same is dismissed.

There shall be no order as to costs.



J.M.



A.M.

Asthana/  
19/22.3.02