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Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 17th day of January 1997.

Original Application no. 439 of 1996.

Hon'ble Mr. R.K. Saxena, Judicial Member
Hon'ble Mr. S. Dayal, Administrative Member.

Munnar Prasad, S/o Late Sri Ramai, Electric Foreman,
Northern Railway, Kanpur, under S.E.F.O. (G), R/o
Bungalow No. 893/B, near Area Club, Steam Loco Colony,
Northern Railway, Jamunia Bagh, Kanpur.

... Applicant.

C/A Sri B.N. Singh.

Versus

1. The Union of India, through General Manager (Personnel),
Northern Railway, Baroda House, New Delhi.
2. General Manager (Electric), Northern Railway, Baroda
House, New Delhi.
3. The Divisional Railway Manager, Northern Railway,
Allahabad.
4. Sri V.K. Agarwal, Addl. Divisional Railway Manager,
(Electric), Northern Railway, Allahabad.
5. Senior Divisional Electrical Engineer (G), Northern
Railway, Allahabad.
6. Senior Divisional Personnel Officer, Northern Railway,
Allahabad.
7. Asstt. Electrical Engineer (G.), Northern Railway,
Kanpur.

... Respondents.

C/R Sri P. Mathur.

ORDER

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant seeks following reliefs in this application:-

- i. issuance of the direction to the respondents to give promotion to the applicant after fixing his seniority properly on the basis of 100/40 Points Roster in the notional grade of Rs. 340-1040 in which the applicant's juniors were working,
- ii. a direction to quash the adverse remarks given by the respondents on 18.10.72, 19.02.74, 27.08.75, 01.01.76, 06.09.76, 28.01.77, 29.08.79, 08.08.80, 19.09.80 and 21.08.82 as illegal and malafide and against the provision of natural justice,
- iii. to award the cost of the application.

3. The facts of the case as given by the applicant in his application are that he was appointed as Apprentice Mechanic on 14.05.64 in Northern Railway by the General Manager (P.) after passing the written test and interview conducted by the Railway Service Commission, Allahabad. After completion of necessary training the applicant was appointed as Asstt. Electrical Chargeman, in the scale of Rs. 205-280 at Kanpur on 15.12.70. The applicant was placed in the seniority list at Serial no. 255. The applicant claims that his services had been blotless and there was no complaint against him. He also mentions that he appeared in the test held on 16.09.73 by Head Quarters of Northern

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Railway, Baroda House, New Delhi. The result of the test has not been communicated to him so far. He claims that the respondent no. 4 Sri V.K. Agarwal had a grudge against him and ^{induced} Sri G.L. Vaishnavi to pass adverse remarks in his service record. His appeal against adverse remarks was rejected by the appellate authority without any application of mind. He claims that his promotion to the scale of Rs. 550-750 was withheld on the ground of adverse remarks. He claims that he was entitled to promotion on the basis of 40 roster point but his seniority was not maintained as per roster and he was not sent for the additional training coaching to makeup standard in case he was found below standard in accordance with circulars of the Railw Board no. E(SCT)64CM15/5 dated 30.12.65 and No. E(SCT)5M/20 dated 27.04.59. He claims that his junior was promoted in the scale of Rs. 550-750. The applicant claims that he was promoted vide order dated 15.12.85, which states that although his services were not upto the mark, he was being given chance as he was the senior most employees. He claims that he had made representation on 17.06.85 after getting his promotion that he should have been promoted as per Mianbhoy Tribunal award with effect from 01.08.72. He states that Sri K.S. Vimal and Sri Dinesh Singh were appointed much after the applicant and were working as Assistant Engineer.

4. Arguement of Sri B.N. Singh learned counsel for the applicant was heard. Since none remain present on behalf of the respondents, the case was heard ex parte.

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5. The applicant has come to the Tribunal basically for two reliefs. The first is that he should have been promoted to the next higher scale in 1972 passed on mianbhoy award as also on the fact that he belongs to the Scheduled ^{Caste} ~~Tribe~~. The second relief was that adverse entry was awarded to him on his performance for a number of years should be quashed. The second relief was not entertained by the Court as it has become time barred. The orders passed regarding the relief of quashing of adverse entries on 10.11.86 are reproduce below:-

"Heard. The relief (b) claimed by the applicant is clearly barred by limitation U/S 21 of the Administrative Tribunal A^t, we cannot entertain the application for that relief. We, however, entertain the application for relief (a). Issue notice to the respondent to file reply within a month. Rejoinder affidavit be filed, thereafter, within 15 days. List it for hearing on 23.01.87."

6. Therefore, now only one relief is to be considered i.e whether the applicant was entitled to promotion on the ground that he belongs to the S.C, regardless of his performance. The applicant has brought 2 letters to our notice. First one is dated 27.04.59. The instructions are to the effect that promotion from class fIV to class II and class III to class II should have quota of reservation and 4 times of number of post should be field of eligibility. However it is mentioned that the promotion is from grade to grade in class III, posts and selection is made on non selective post on seniority cum suitability basis, there will be no quota of SC and ST candidates in respect of promotion to such post. The quota shall be only for selection post and the

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✓ field of eligibility ^{will be} as in the earlier case. The applicant has also brought the instruction of the Railway Board letter dated 30.12.96, in which it is laid down that the suitability of SC and ST candidate for promotion should be judged on the basis of relaxed standard and any ~~defects~~ ^{deficiency should be} made good by giving any additional training to such candidates. The record of the applicant for the year ending 31.03.1972 shows average remarks, the record for the year ending 31.03.1973 shows that his performance is below average and states that the head light section efficiency has gone down and ~~there~~ have been a number of light failures. Again his performance for the year ending 31.03.75 also was not considered satisfactory, ^{and yet} again his performance for the year ending 31.03.76 was considered to be below average. His confidential report for the year ending 31.03.79 shows that he was technically very poor and should not ~~be~~ ^{have} be given charge of independent installation. The confidential report for the year ending 31.03.80 mentioned that he was technically poor, not amenable to discipline and not yet fit for promotion. His representation/those average remarks were not accepted. He was promoted in 1985 although his confidential report for the year ending 1984 was not upto marks which means that he was given special consideration presumably on the basis of being the member of SC.

7. The respondents have mentioned in their Suppl. CA that the applicant was hauled up for failure to attend annual interview and his increment was withheld temporarily for 6 months. It is also mentioned that the applicant appeared in suitability test for electrical chargeman grade A in the grade of Rs. 550-750 (RS) on 04.12.77, but he did

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succeed in the test. It has been mentioned that the post of electrical chargeman belongs to category of safety posts and no relaxation in prescribed qualification, period of service, and other criterion is allowed while filling up these posts.

8. The applicant has mentioned that a number of juniors have superseeded him but he fails to mention the reasons for his supersession or the year in which he was superseeded ~~with regard~~ ^{due} to non communication of result of the test held on 16.09.73. The respondents have mentioned in their counter affidavit that it was the practice to announce and communicate the result of these candidates who were selected and no communication was sent to candidates who could not acquire adequate ~~marks~~ for the selection.

9. We are of the opinion that the applicant has failed to make out any case for his promotion from the day prior to the one ^{on} which the promotion was given to him. The application is, therefore, dismissed.

10. There shall be no order as to costs.

Member-A

Durvesh

Member-J

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