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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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O.A. No. 662 of 1986

Dated: 25.07.1995

Hon. Mr. S. Das Gupta, Member(A)
Hon. Mr. T.L. Verma, Member (J)

Man Ranjan Singh, aged about 44
years, son of late Lallan Singh, R/o
679 Bichhiya Railway Colony, Gorakhpur. .. Applicant.
(By Advocate Sri G.C. Bhattacharya)
Versus

1. G.M. N.E. Railway, Gorakhpur.
2. Chief Engineer, N.E. Railway,
Gorakhpur. Respondents.

(By Advocate Sri A.K. Gaur)

O R D E R

(By Hon. Mr. S. Das Gupta, Member(A))

This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking several reliefs. The first relief is that the respondents be directed to treat the applicant as Head Estimator in the scale of Rs. 550-750. It has been further prayed that the respondents be directed to treat the applicant as Draftsman in the scale of Rs. 425-700 since 1973. A direction to the respondents has also been sought for implementation of the order dated 16.11.1984 and that of General Manager(P) N.E. Railway, Gorakhpur dated 3.12.1984 and treat the applicant as Draftsman in the scale of Rs. 425-700.

2. The applicant has averred that he was selected by the N.E. Railway Service Commission
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as Assistant Draftsman in the year 1963. He took transfer from N.E.F. to N.E. Railway from 22.12.1972 as Assistant Draftsman in the scale of Rs. 330-560. Although, there were 33 vacancies during the period from 1972-73 in the grade of Draftsman in the scale of Rs. 425-700, Out of which 26 posts were available against 80% Departmental Promotion Quota from Assistant Draftsman, The applicant was not called for selection although he was entitled for consideration. He filed a writ Petition before the High Court of Judicature at Allahabad and thereafter ^{the} Civil Suit. The Civil Suit was withdrawn by the applicant on the assurance given by the N.E. Railway administration that he would be given an opportunity to appear in the Examination to be held in the year 1977. Accordingly, the applicant appeared in the examination but he was declared unsuccessful. The applicant alleged that his failure is on account of certain adverse remarks in his A.C.Rs which was represented ^{against} but the representation was still pending for decision. Thereafter, it is alleged that he has again appeared in 1981 for Selection but he was again declared unsuccessful on the ground of alleged adverse ~~entry~~ entry in his A.C.R. The applicant ^{is} stated to have made several representations but these ^{draw} ~~to~~ no response.

3. The applicant has further stated that

he worked as Head Estimator in the scale of Rs. 550-750 in different spells and was given the benefit of one higher grade of Rs. 425-700

for such periods. He claims that he was, therefore, entitled to the post of Head Estimator but he has been illegally denied of this post and a representation in this regard has also been submitted.

4. Another grievance of the applicant is with regard to the alleged denial of the benefit of the restructuring of the drawing office cadre by the Railway Board vide its order dated 16.11.1984 circulated by the G.M.(P) N.E. Railway, Gorakhpur vide its letter dated 3.12.1984. It has been stated that number of posts in the Draftsman category was increased as a result of the restructuring and he was entitled to be upgraded to the post of Draftsman in the scale of Rs. 425-700 is w.e.f. 1.1.1985 but he was denied of the same.

5. The respondents have filed a counter affidavit in which it has been admitted that the applicant was not allowed to appear in the selection examination held in 1972 and after withdrawal of the Civil Suit filed by the applicant, on the assurance given by the respondents in this regard he was allowed to appear in the selection test held in 1977. The applicant, however, did not qualify in the written test and was thus declared unsuccessful. Subsequently, another test was held in 1978 and in this examination

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also, he ~~did not~~ secure qualifying marks in the written test. The applicant, it is stated, also appeared in the Examination held in 1981 and though he qualified in the written and viva-voce test he failed to secure the qualifying marks in the other group. The respondents have denied that the failure of the applicant was on account of the adverse remarks in the A.C.R.

6. As regards ^{the claim} ~~one~~ of the applicant to be treated as a Head Estimator, it has been stated that the applicant was paid the higher scale of pay of Rs. 425-700 during the period he was asked to look after the work of the ^{Head} ~~same~~ estimator. This, does not, however, entitle him to ^{be} ~~treat~~ as Head Estimator as he was never promoted to this post.

7. As regards the restructuring of the drawing ^{Office} ~~of his~~ cadre, it has been stated by the respondents that the posts which were created in the category of ~~Draftsman~~ Draftsman as a result of the restructuring were filled by the persons ^{senior} ~~senior~~ to the applicant and thus, there was no illegal denial of this benefit to the applicant.

8. When the case was called out for hearing, ^{was} ~~not~~ present on behalf of the applicant. The learned counsel for the applicant had sought adjournment. As the case has been adjourned number of times and the matter was fairly old, we consider it appropriate to peruse the pleadings and decide the matter. We also heard ~~the~~ the learned counsel for the Respondents.

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9. The applicant has filed a rejoinder affidavit. There is no effective denial of the averments of the respondents that the applicant did not qualify in the selection examination and his failure is not wholly attributable to the alleged adverse remarks. As the claim of the applicant to be promoted as Draftsman would depend on his qualifying in the selection Examination, the post of Draftsman, admittedly, being a selection post, his claim that he should be treated as Draftsman has no basis. Also, it is clear from Annexure- A 4 that the applicant was only asked to look after the work of the incumbent to the post of Head Estimator and this is in no way an order for promotion of the applicant. In any case, the applicant being in the pay scale of Rs. 330-560, the question of his promotion to the post of Head Estimator which is in two grade ~~00~~ above will not arise.

10. So far as the question of the benefit of restructuring is concerned, the respondents ~~have~~ ^{have} specifically ~~000~~ averred that only ~~senior~~ ^{senior} to the applicant have been given this benefit. There is no effective denial of this in the rejoinder affidavit.

11. In view of the foregoing, we find no

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merit in the application, the same is , therefore,
dismissed. There will be no order as to
costs.

L. H. W.
Member(J)

W. C.
Member(A)

(n.u.)