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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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. Bhattachayya)

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

Respondents.

(By Advocate Sri A.K. Gaur)

ORDER

(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 Estimater 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. Rail-way, 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 Hs. 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 the High Court of Judicature at Allahabad and there af: _ter the Civil Suit The Civil Suit was withdrawn by the applicant on the assurance given by the N.E. Railway administration that he would be given an opportunity to appear in the Examination to be held in the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 applicantappeared 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, itis alleged that he has again appeared in 1981 for Selection but he was again declared unsuccessful on the ground of alleged adverse on entry in his A.C.R. The applicant, stated to have made several representabut these too no response

3. The applicant has further stated that

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he worked as Head Estimater 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 Estimater 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 circulateby the G.M.(P) N.E. Railway, Gorakhpur vide its detter 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.
- 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 withdrawl 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, ded not qualify in the written test and was thus declared insuccessful. Subsequently, another test was held in 1978 and in this examination

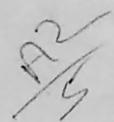
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also, he dednot secure qualifying marks in the written test. The applicant, it is stated, also appeared in the Examination held in 1981 and though he qualified in the written and viva-voce test he failed to secure the qualifying marks in the other 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 one of the applicant to be treated as a Head Estimater, 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 lookafter the work of the same estimater. This, does not, however, entited him to treat as Head Estimater as he was never promoted to this post.
- of his cadre, it has been stated by the respondents that the post which were created in the category of Draftsman as a result of the restructuring were filled by the persons Se. to the applicant and thus, there was no illegal denial of this benefit to the applicant.
- when the case was called out for hearing, 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 heards the learned counsel for the Respondents.

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- 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 lookafter the work of the incumbent to the post of Head Estimater 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 Estimater which is in two grade above will not arise.
- 10. So far as the question of the benefit of restructuring is concerned, the respondents have small specifically and averred that only semion 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:

Member(J)

Member(A)

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