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Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration (T.A.) No. 1313 of 1986

Shivaji Singh Plaintiff-Applicant.

Versus

Union of India & Others .. Defendant-Respondents.

Hon'ble K.S. Puttaswamy, V.C.

Hon'ble Ajay Johri, A.M.

(Delivered by Hon'ble K.S. Puttaswamy, V.C.)

This is a transferred application and is received from the court of Munsif, Gorakhpur under Section 29 of the Administrative Tribunals Act XIII of 1985 (Act).

2. On 6.8.1947 the applicant joined service as a Junior Clerk in the North-Eastern Railway Zone (NER) of Indian Railways. He claims that he should have been promoted as a Senior Clerk with effect from 1.5.1958 and that promotion was illegally denied to him. He also asserts that an order made in his favour on 25.12.1979 by the General Manager, NER (GM) giving him the benefit of promotion to the post of Senior Clerk from 1.5.1958 was not implemented and he was not allowed to draw the emoluments in the higher post of Senior Clerk either from 1.5.1958 or 25.12.1979. Lastly the applicant has asserted that on 15.3.1980, the General Manager (P), NER, made an order promoting him to the post of Senior Clerk and that in pursuance of the same he had discharged the duties of a Senior Clerk from that date till he retired from service on 31.1.1984 and that notwithstanding the same. The respondents, had not

made him available the salary of that post till his retirement from service and for pension due to him on his retirement from service from 31.1.1984. In Original Suit No. 157 of 1983 instituted in the court of Munsif, Gorakhpur the applicant claimed for various reliefs those claims which on transfer has been registered as Registration (T.A.) No. 1313 of 1986.

3. In the written statement filed before the Munsif Court, the respondents have resisted the applicant's suit.

4. Sri A.K. Srivastava, (AKS) learned counsel for the applicant, contends that the respondents were bound to give effect to the orders of promotion made by the General Manager on 25.12.1979 and on 15.3.1980 and extend all financial benefits of promotion from 1.5.1958.

5. Sri A.V. Srivastava, (AVS) learned counsel for the respondents, in refuting the contentions of Sri A.V. Srivastava, contends then the applicant, who had not shouldered the duties of the post of a Senior Clerk at any point of time had retired only as a Junior Clerk on 31.1.1984 and was therefore not entitled to any of the reliefs.

6. Whatever be the merits of the claim of the applicant for promotion from 1.5.1958 or from 25.12.79 they are very stale claims and were clearly barred by time even when the applicant approached the Civil Court on 27.1.1983. On this short ground the claims of the applicant for payment of arrears of salary

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and other benefits either from 1.5.1958 or from 26.12.1979 cannot be granted by us. We, therefore, reject the claims of the applicant for arrears of salary from 1.5.1958 to 14.3.1980 without examining the merits of the same. With this we now turn to the claim of the applicant for the benefit of promotion granted on 15.3.1980.

7. On 15.3.1980, the applicant was promoted as a Senior Clerk is admitted by the respondents. But they assert that the applicant did not work as a Senior Clerk till he retire from service in the circumstances narrated by them in their reply. Sri A.V. Srivastava has highlighted the same before us. We will even assume that this plea of the reply is correct. But that in our opinion hardly ~~makes~~ ^{works} any difference to uphold the claim of applicant at least purposes of pension and other terminal benefits due to him on his retirement.

8. The order of promotion made on 15.3.1980 was not revoked time he retired from service. If that is so, then the respondents cannot deny the benefit of that order at least for purposes of pension and other terminal benefits, if not for arrears and salary, we are also of the view that the grant of the limited relief is called for and justified on the facts of this case. We therefore purposes to grant that only.

9. In the light of our above discussions we made the following orders and directions :-

- i) We dismiss this application insofar as the same claims payment of arrears of salary from 1.5.1958 and onwards.
- ii) We declare that the applicant had been promoted as a Senior Clerk from 15.3.1980 till he retired from service on 31.1.1984 for purposes of pension, gratuity and retirement passes only and direct the respondents to compute only those benefits and make payment of all such amounts that legitimately become due to him with all such expedition as is possible in in the circumstances of the case and in any way within a period of four months from the date the applicant submits his pension papers before the competent officer.

10. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

Mr. Purushottam
Vice-Chairman (i)(u)(b)

3/GR/10/87/P
Member (A)

Dated: November 11th, 1987.

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