

(A21)

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (T.A.) No.1336 of 1986
Jagdish Lal Plaintiff-Applicant.
Versus
Union of India Defendant-Respondent.

Hon'ble K.S. Puttaswamy, V.C.
Hon'ble Ajay Johri, A.M.

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

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

2. The applicant joined service as a Khallasi on 5.10.1963 in the Northern Railway Zone (NR) of Indian Railways. While working, he was inflicted with more than one penalty of stoppage of increments for unauthorised absences. He claims that the very last of such punishments had expired on 30.4.1983 and that from the very next date, viz. from 1.5.1983 he was entitled for promotion as a Skilled Fitter and the same had been illegally withheld from that date by the Competent Officer of NR for which relief he approached the Munsif, Saharanpur in O.S. No.256 of 1985, which on transfer has been registered as Registration(T.A.) No.1336 of 1986.

3. In its reply, the respondent had asserted that the applicant had been inflicted with more than one punishment of stoppage of increments and that he is not entitled for promotion from 1.5.1983 on

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thereafter also.

4. Sri A.K. Dwivedi, learned counsel for the applicant, contends that on the expiry of the last punishment, the applicant was entitled for promotion as a Skilled Fitter from 1.5.1983 and the withholding of the same, by the competent officer of the NR, was unauthorised and illegal.

5. Sri K.N. Kumar, learned counsel for the respondent, contends that the withholding of promotion of the applicant was in conformity with the orders of punishment imposed against him and the circular instructions issued by the Railway Board from time to time.

6. In his application, the applicant has asserted that the last punishment had expired on 30.4.1983. But the respondent in its reply had asserted that the very last punishment only expired on 30.4.1986.

7. The parties have not produced the orders of punishments imposed against the applicant and, therefore, we cannot determine the exact date of expiry of last punishment imposed on him. In any event that is a matter to be examined and decided by the competent officer of the NR on an examination of the orders of punishments made against the applicant.

8. The applicant is only claiming for promotion from the date the last punishment had ceased to be effective.

9. When the last punishment has ceased to be effective the competent officer of the NR is bound to consider the case of the applicant for promotion and if

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he is found fit for promotion, promote him and make him available all such financial and consequential benefits flowing from the same. Every one of the circulars issued by the Railway Board, some of which are printed in M.L. Jind's Railway Servants Discipline and Appeal Rules, 1968, II Edition, also permit to the same. We are, therefore, of the view that this limited claim of the applicant has to be upheld by us.

10. In the light of above discussions we direct the competent officer of the Northern Railway to consider the case of the applicant for promotion from such date the last punishment imposed on him ceased to be effective, and if he is found fit for promotion, promote him and make him available all such financial and consequential benefits flowing from the same and all such expenditure as is possible in the circumstances and in any event within three months from the date of receipt of this order.

11. The application is disposed of in the above terms. But in the circumstances of the case we direct the parties to bear their own costs.

Rs. P. N. M. S.
Vice-Chairman. 10/11/87.

B.R. S. S.
Member (A).

Dated: November 10, 1987.

PG.