

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH, ALLHABAD.

T.A.No.1281 of 1987.

Mohd. Aziz Khan Applicant

Versus

Union of India & others Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The applicant had filed a writ petition before the High Court which, by operation of law, has been transferred to this tribunal.

2. The High Court issued an interim mandamus on 5.12.86 to the effect that the applicant shall be promoted on the basis of seniority -cum-selection list dated 1.8.84 within two months of the presentation of a certified copy of the order and in pursuance thereof, the respondent no.2 passed an order appointing the applicant as Chief Inspector Ticket/ ^{Tundla} w.e.f. 1.1.84 in the grade of 550-750 . The applicant still was not satisfied with the same and as such under the restructuring circular dated 1.1.84, he is entitled to get higher scale, that is why the case has been argued by the learned counsel for the applicant. The applicant, who was an employee of Railway Administration, moved an application for grant of four months' leave for HAJ. It appears that without furnishing 'no objection certificate', he proceeded on one month's leave w.e.f. 5.9.82, sanctioned by AS/TDL who was not competent to do so. The period from 5.9.82 to 4.10.82 was regularised as leave on average pay. The applicant was called on 22.6.83 for suitability test for the post of CIT in the grade of 550-750 but he was declared unfit for the said post vide letter dated 24.6.83 and the respondents were found fit for the said post and that is why they were promoted to the said post. On behalf of the

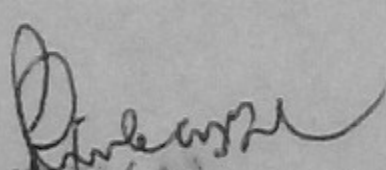
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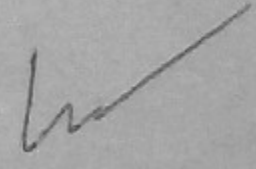
applicant, it was contended that the applicant is entitled to get the benefits of restructuring circular dated 1.1.84. The relevant paragraph reads as follows:-

"4-1 . The existing classification of the posts covered by these restructuring orders, as 'Selection' as the case may be, remains unchanged. However, for the purpose of implementation of these orders, if an individual railway servant becomes due for promotion to only one grade above the grade of the post held by him, at present, on a regular basis, and such higher grade post is classified as a 'Selection' post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service records without holding any written and /or viva voce test. Naturally, under this procedure, the categorisation as 'outstanding' will not exist."

3. This notification ~~ix~~ dated 20.12.83 itself provides that after restructuring, the staff selected and posted against the additional higher grade post will have their pay fixed w.e.f. 1.1.84.

4. On behalf of the applicant, it was contended that the applicant was placed under a particular grade and as a result of restructuring of circular, he should have been placed under higher grade. The applicant was not found fit for the same and merely because he was allowed to continue in the said grade, it will not entitle him to get the higher grade. In pursuance of the order, passed by the High Court, a particular grade w.e.f. from 1.1.84 has been given to the applicant and as such the application deserves to be dismissed and it is accordingly dismissed with the modification that the leave, which have been granted to the applicant, shall not be disturbed. No order as to costs.


MEMBER (A)
DATED: JULY 22, 1992
(ug)


VICE CHAIRMAN.