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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration T.A. No. 1791 of 1987
(W.P. No. 2801 of 1985)

B.P. Arya Applicant.

Versus

Union of India
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.

This is transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicant has filed a writ petition before the High Court of Judicature at Allahabad praying that a writ of mandamus be issued directing the respondents to promote the applicant in the next higher grade of Rs. 700-900 w.e.f. 1.1.1984.

2. The applicant was appointed Goods Clerk, Group-C Commercial in the Northern Railway, on 28.6.1958. He was promoted to the higher posts from time to time. The last promotion of the applicant was made on 22.7.1982 on the post of Chief Goods Supervisor in the pay scale of Rs. 550-750. ~~The~~ In the seniority list of the employees of Group-C Commercial of Allahabad Division, Northern Railway, the applicant placed at Sl. No. 13. A notification was issued by the Central Government on 20.12.1983 restructuring the categories of the employees of Group-C Commercial.

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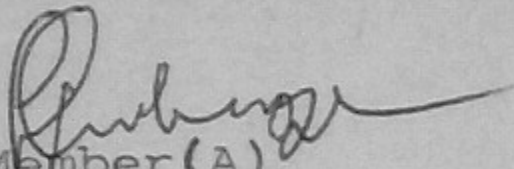
As a result of the aforesaid restructuring of the posts in the Commercial Cadre, additional posts in the grade of Rs. 700-900 were worked out. In view of the aforesaid Government order, the employees who were working in the grade of Rs. 550-750 were eligible for promotion in the grade of Rs. 700-900. On 2.1.1984, the applicant was served with a charge-sheet, dated 24.12.1983 issued by the then Area Superintendent, Northern Railway Kanpur and in pursuance of the charge-sheet and enquiry took place and ~~some~~ minor punishment was awarded to him by the enquiry officer on 16.7.1984, by which his annual pay and increments for a period of two years are withheld w.e.f. 1.10.1984. The aforesaid order of the punishment is served on the applicant on 27.9.1984. The applicant filed an appeal against the same but his ~~appeal~~ appeal is still pending for disposal before the respondent no. 2. The applicant was declared unfit by the respondent no. 3 vide order dated 14.9.1982 for the post of Chief Goods Supervisor and was transferred to Hathras Forte, Northern Railway, Hathras. The respondents have not disclosed any reason as to why he was unfit to hold the said post, without having worked on the said post even for a day. The applicant on account of his domestic and family troubles, could not join at Hathras, and as a result of which he was reverted back in the grade of Rs. 455-700. The applicant on 13.10.1982 was again promoted in the grade of Rs. 550-750 as Chief Goods Supervisor and posted at Central Goods Shed, Northern Railway Kanpur.


3. The respondents have refuted the claim of the applicant and have stated that the applicant was holding the post of Goods Supervisor in the grade of Rs. 550-750 and not the post of Chief Goods Supervisor which carries a grade of Rs. 700-900. It is further stated that on finalisation of the vigilance case for major penalty in which the applicant was awarded a punishment of withholding of next increment for two years which was to take effect from 1.10.1984, the suitability of the applicant was again judged by the selection Board on 5.9.1984 but he was again not found suitable by the selection Board consisting of three junior Administrative grade officers. The entire selection was done as per extended rules and only those persons found suitable were promoted. The applicant was served with a major penalty chargesheet dated 24.12.1983 on the basis of the vigilance check report received from the General Manager Vigilance dated 21.11.1983. The first consideration was made in the month of October, 1984, and the applicant was not found suitable and in case, he would have been found suitable, the applicant could have been promoted w.e.f. the date others were promoted. The suitability of the applicant was adjudged again and he was again found unsuitable by the selection Board and that is why he could not be promoted. Regarding the enquiry etc. the allegations of the applicant have been refuted and further in this case, the applicant has not challenged the punishment order, as such, it is not necessary to enter into all such allegations. As the applicant was under the penalty and further he was not found suitable and that is why he was not

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promoted even though, he was eligible. As such, the application has got to be dismissed. ^But after the period of punishment was over, the respondents should have considered the applicant for the promotion post and in case the said consideration has not been done, let it be done within a period of three months taking the relevant date of his promotion till the date when his punishment period was over. No order as to costs.


Member (A)


Vice-Chairman

Dated: 1.9.1992.

(n.u.)