

THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

-101-

D.A.NO. 397 of 1987

Syed Mohd Hasan and others ...

Applicants

Vs

Union of India & others ...

Respondents

REMARKS

HON'BLE MR MAHARAJDIN MEMBER-J

HON'BLE MR B K SINGH MEMBER-A

(By Hon'ble Mr Maharajdin, Member-J)

The applicants have moved this application seeking the relief that on the basis of combined seniority they list of the Pharmacists of Northern Railway be promoted to the higher grades ignoring the effect of de-centralisation of their posts giving effect from 08-08-85.

The applicants were posted as Pharmacists in the grade of Rs 425-640 / 330-560 in the Medical Department of Northern Railway, Allahabad Division. Their posts were controlled by the Head Quarter's Office, Baroda House, N.Rly. New Delhi upto 08-08-85 and thereafter the posts were de-centralised and became divisional control posts. The Railway Board issued letter dated 16-11-1984 (Annexure -C) asking the General Managers of all the Zones for Cadre review and restructuring with effect from 01-01-84. The implementation of the order of de-centralisation has adversely affected the promotion of the applicants and they were deprived of the

W.MD

A2
2
10

(1) A-2
3

promotion while the Pharmacists junior to them have been promoted on other divisions. Such anomalous ~~position~~ has arisen because of non-implementation of Board's order before de-centralisation.

The respondents filed Counter Affidavit and have resisted the claim of the applicants on various grounds.

We have heard the learned counsel for parties and carefully perused the record.

According to the applicants the Divisional Rly Manager, Northern Railway, Allahabad had not implemented the orders of the Railway Board correctly and filled three posts in higher grades by promoting the persons belonging to reserve category of Scheduled Castes/Scheduled Tribes. During the course of arguments the learned counsel Shri R.P.Srivastava as well as Shri Anand Kumar appearing on behalf of applicants stated at bar that the applicants now do not press any relief as against the persons (respondents No.3 to 5), who were promoted on higher grade treating them as the persons of reserve category S.C. & S.T. As such the applicants have not pressed relief No.s II & III. They have however, only pressed for the relief as mentioned in paragraph 7(i).

The main controversy existing in this case is that whether the applicants were given higher grade in accordance

[Signature]

with the combined seniority list maintained at Head Quarter or the promotion in the higher grade are to be given according to the list prepared after de-centralisation. It is not disputed that the applicants who were denied the senior grade from 01-01-84, the date from which the restructuring of the grades were given effect to, were seniors in the combined seniority list to the persons who were given promotion on higher grads on the basis of the list prepared at Division level after de-centralisation. The Railway Board vide letter dated 16-11-84 (Annexure-C) issued instructions for cadre review and re-structuring of Group 'C' and Group 'D' with effect from 01-01-84. The post of Pharmacists were controlled by the Head Quarters Office and the postings were to be made by the Head Quarters Office on the basis of the combined seniority list of the Pharmacists in Northern Railway. The General Manager, instead of issuing promotion order on the basis of the combined seniority list, de-centralised these posts on a subsequent date i.e. 08-08-85 and directed that the re-structuring in the cadres be done by division themselves with effect from 01-01-84. The posts of Pharmacists in the grade of Rs. 330-560 and Rs. 425-640 were divisional control posts, and Grades Rs 455-700 & 550-750 were Head Quarter Control posts. But later on while implementing

Manu

the re-structuring the General Manager, Northern Railway treated all the posts of Pharmacists irrespective of the grades as Head Quarter Control posts and accordingly prepared the combined seniority list vide letter dated 27-06-85 (Annexures C & D). Thus all the posts of the Pharmacists were treated to be Head Quarter Controlled posts as on 16-11-1984. The General Manager, Northern Railway instead of implementing the re-structuring according to the instructions of the Railway Board on the basis of the Head Quarter Controlled seniority list, placed the posts of Pharmacists under the control of division, which has adversely affected the applicants in getting the promotion on the higher grade. The silent feature of the review and re-structuring scheme provided that the cadre strength as on 01-01-84 is to be taken into account for the purpose of re-structuring, as such, the cadre strength of Pharmacists existing on 01-01-84 comprises the combined cadre and not the separate cadre created as a result of de-centralisation.

In view of the discussions made herein the benefit of the scheme was to be remained on the combined seniority of the pharmacist has existed on 01-01-84 in the Northern Railway and not on the basis of the seniority prepared as a result of de-centralisation. This case is squarely covered by the decision of a case of Central

Dhruv

Administrative Tribunal, Principal Bench (O.A.No.1131/86:

Amar Singh and others versus Union of India and others)

decided on 12-09-89. The operative portion of the same is extracted as under :-

" In the premises, we hold that the benefit of restructuring flowing from the policy of restructuring introduced vide Annexure-2, in the matter of promotion from the post of PI (Grade 500-750) to the post of CPI (Grade 700-900) is to be accorded on the basis of combined seniority of the cadre of CPI as it existed on 1-1-84 and not on the basis of the group seniority in the Divisions which came into existence as a result of decentralisation of the posts of CPIs. In sum, the respondents are directed to grant promotion to the eligible Applicants to the posts of CPI arising as a result of coming into force of the Scheme of restructuring, on the date indicated here-in-above within a period of three months from today."

In view of the discussions made above we allow the application of the applicant with the direction to the respondents that the orders for re-structuring of the pay of Pharmacist (applicant) with effect from 1-1-84 issued by Railway Board vide letter No. PC-III/84/UFC/9 dated 16-11-84 should be implemented by the General Manager Northern Railway, New Delhi, on the basis of combined

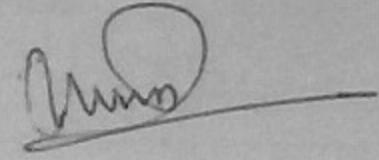
[Signature]

(15) A2/7
-6-

seniority list of Pharmacist of Northern Railway as a
whole and the applicants be promoted to higher grades
as per rules before de-centralisation of the post to
divisions on 08-08-85. There will be no order as to
cost.



MEMBER-A



MEMBER-B

DATED: ALLAHABAD, September 13th, 1993.
(VKS PS)
