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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

Registration O.A.740 of 1987

R.K.Bajpai ... ... ... Applicant.

Versus

Union of India  
and others ... ... ... Respondents.

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

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

The applicant entered in Railway Service on 9.11.1960 as Pharmecist Grade-B which is now Grade- III and Since then, he continued in the said service. His next promotion post is Pharmacist Grade-A which is now grade-II in the scale of Rs. 425.640(RS) which was to be made on the basis of seniority-cum-suitability. He was place for suitability test for the post of Pharmacist Grade-A vide letter dated 29.10.1976 in which he was placed in Sl. No. 7. Again the applicant was called for suitability test for the post of Pharmacist Grade-A in the year 1983 and he was found suitable and was promoted and transferred from Moghalsarai to Jamalpur vide order dated 19.2.1983. The applicant did not accept the said promotion due to some domestic reason and that is why, he was debarred for promotion to Pharmacist Grade-A in the said scale for the period of 1 year vide letter dated 30.3.1983, and after passing one year, he became entitle for promotion to the said post but without any authority or jurisdiction, he was not promoted to the said

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post by the respondents. After a long time, in view of re-structuring of pharmacists he was upgraded to the said post vide order dated 22.4.1987 and a panel was formed, in which he was placed at Sl. No. 2. and Sri Jamuna Chaudhury was placed at Sl. No. 48. According to the applicant the said Jamuna Chaudhury was placed on the said Sl. No. in the panel even by superceding various persons. According to the applicant, the respondents went to the extent of promoting Jamuna Chaudhury against the post vacated by one R.P. Roy who was transferred on 11.2.1985 and that is why, he has approached the Tribunal praying that the respondents may be directed to give effect to his promotion to the post of P harmacist Grade-A in store w.e.f. April, 1984 and consequently, he may be promoted as Pharmacist Grade-I in store in the scale of Rs. 1640-2900(RP) in view of re-structuring vide order dated 22.4.1987.

2. The respondents have opposed the claim of the applicant and have stated that the applicant was considered for promotion as Pharmacist Grade-A in the year 1983 and because of his refusal for promotion, he was debarred for one year, and again he was considered for promotion against the restructuring post w.e.f. 1.1.1984 and was retained in the same station. The seniority list was prepared in view of the Patna High Court's decision and later on, the Railway Board's revised order and according to the seniority list, the staff senior to Sri Jamun Chaudhury has been considered for promotion and the order is under issue.

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Now these facts make it clear that the applicant who refused the promotion in the year 1983 became entitled for promotion against w.e.f. April, 1984. As the respondents have admitted in his counter affidavit that although, the applicant was entitled for promotion from the year 1984 but he was promotion from the year 1987. The respondents should have promoted the applicant from 1.1.1984 if not actually but notionally but they have not do@ so. In our opinion, the has applicant has been deprived of his promotion for no fault of his and it is a settled principle of law that no one will suffer because of the delay and laches on the part of the department itself. The contention of the applicant is that it was he who should have been promoted instead of Sri Jamuna Chaudhury who was junior to him in place of R.P. Roy.

3. Accordingly, the respondents are directed to promote the applicant from 1.1.1984 notionally from the said post and actually from 1987 and he will be given all the consequential benefits. The application is disposed of with the @above observations. There will be no order as to costs.

Member (A)

Vice-Chairman

Dated: 8.4.1993

(n.u.)