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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

Registration O.A. No. 811 of 1987

C.P. Sharma Applicant.

Versus

Union of India and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

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

who

The applicant joined the Services in the Northern Railway as a clerk has approached this Tribunal praying for a direction to the respondents to promote him as Assistant Superintendent in the grade of Rs. 550-750 since 20.12.1985 along with all the consequential benefits, like pay etc and also against the graded promotion as Office Superintendent. He has further prayed that consequent upon his promotion without undergoing the competitive examination for grade Rs. 1600-2600, as Assistant Superintendent w.e.f. 1.1.1984. The subsequent benefits to the next promotional post as Superintendent is automatic and consequential but arbitrarily this promotion has not been allowed and as such the respondents may be directed to make retrospective adjustments with regard to the applicant's promotions, refixation of pay and grant all promotional benefits with respect to pay fixation and retiral benefits inclusive of pension, gratuity, leave encashment, commutation of pension etc with 18% interest per annum since 1.1.1984 and thereafter till the payment is made. On 23rd March, 1979, the applicant was promoted as Senior Clerk in the grade of Rs. 330-560 at Varanasi. In January, 1984, the Railway Administration ^{has} passed a policy of restructuring and as a resuot of which several new posts have been created

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by the Railways. The applicant was promoted as Head Clerk in 1st January, 1984 in the grade of Rs. 425-700. Further promotion was made from the post of Head Clerk to the post of Assistant Superintendent in the scale of Rs. 550-750 by an order dated 20.12.1985 and 9 persons excluding the applicant were promoted. Out of these 9 persons, 8 were junior to the applicant. The applicant on making enquiry was told that his name has been bye-passed because ~~because~~ there were certain adverse entries awarded to him. It was then learnt that adverse entry was given to him for the period ending 21st March, 1985 but no entry has been given to him. Latter on, he was informed that vide letter dated 14.11.1986, an adverse entry had been given to him in respect of period ending 31st March, 1985. Another adverse entry was given to the applicant in respect of the period 31st March, 1986 and he was informed of the said adverse entry vide letter dated 27th October, 1986. The applicant filed a representation against the same which was allowed and the adverse entries were expunged. Although, the applicant was not promoted on adhoc basis, even though, he was regularised on 20.3.1989 without undergoing the competitive examination and the applicant's case was not considered.

2. The respondents have disputed the claim of the applicant and have pleaded that on 20.12.1985, the applicant was undergoing punishment and that is why he was not promoted. The applicant has denied the alleged punishment. It appears that no punishment was given to the applicant from the pleadings of the parties and because of adverse entries, his punishment was withheld. The adverse entries having been ~~deleted~~,^{defined} that there appears to be no reason why the punishment ^{had} to the retrospective effect was not given to him, but the same was not done. The respondents fell clearly in the error.

and in order to justify their action have taken pleas which are not sustainable, and accordingly, this application deserves to be allowed and notwithstanding the fact that the applicant has retired from service, the respondents are directed to give notional promotion to the applicant from the date his juniors were promoted, and the applicant will be entitled to all the consequential benefits including all the retiral benefits. Let the amount to which the applicant is entitled ~~shall~~ be calculated within a period of 3 months from the date of communication of this order finally and the payment shall be made to him within another one month. The application is disposed of with the above observations. Parties to bear their own costs.

Shanmugam
Member (A)

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Vice-Chairman

Dated: 13.1.1992

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