

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 12th day of March, 1996

Original Application No. 848 of 1987

District : Agra

**CORAM:-**

Hon'ble Mr. Justice B.C. Saksena, V.C.

Hon'ble Mr. S. Das Gupta, A.M.

Jagdish Babu S/o Late Dashrath Lal

Electrical Fitter in the Office of  
Traction Foreman (Running), Northern Railway,  
Tundla, District-Agra.

(By Sri GD Mukherji & Sri SK Mishra, Advocates)

## Versus

1. The Union of India through the General Manager, Northern Railway, Banda House, New Delhi.

2. The Divisional Railway Manager, Northern Railway,  
Allahabad.

3. Senior Divisional Electrical Engineer,  
(R.S.O.), Northern Railway, Allahabad.

3. Divisional Personnel Officer, Northern Railway,  
Allahabad.

(By Sri KN Kumar, Advocate)

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Bar

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O R D E R (O\_r\_a\_l)

By Hon'ble Mr. Justice B.C. Saksena, V.C.

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs :-

- (i) that he should be given his seniority immediately after 29-12-1981 in pursuance of the order contained in Annexure-2 to this application.
- (ii) that the applicant may be given his arrears of pay and allowances from December, 1981 to February, 1985.

2. The brief facts are that the applicant was promoted as B.T. Fitter ~~skipped~~ by order dated 31-10-1980. He was subsequently promoted w.e.f. 28-2-1985 as Skilled Fitter in Grade Rs.260-400, and he claims that he should have been promoted to this grade after the completion of the first DAR Enquiry on 29-12-1981. The applicant had been suspended on 22-9-1980. The order of suspension as indicated in Para 5 of the counter affidavit was revoked on 6-11-1980 and the DAR proceedings were contemplated against him. He was punished withholding the increment for one year. Subsequently, he was also awarded another punishment of WIT for six months in another case on separate charges and the punishment was in continuation of another earlier punishment. In the meantime the applicant was awarded ~~not~~ withholding of increment for one year on 7-5-1984 in a third case. The applicant, it is stated in the counter affidavit, was free from DAR punishment case w.e.f. 28-2-1985. It is

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further indicated that in view of the merger of the two grades and there being no post available in grade Rs. 210-290 (RS) he was promoted to the post of skilled Fitter Grade Rs. 260-400 (RS) w.e.f. 31-10-1980 on proforma basis vide order dated 19-5-1988 (Annexure-1 to the CA). The said document further shows that the applicant has been granted proforma promotion w.e.f. 31-10-1980 in the higher grade of Rs. 260-400 and notional fixation of his pay on that basis has also been made upto 15-10-1984. Thereafter, since the ~~benefit~~ <sup>orders</sup> of withholding increment had been given when the punishment was given effect in the higher grade and the notional fixation in the higher scale was also made for the period during which the said punishment remained in currency. After expiry of the said punishment period w.e.f. 28-2-1985, the applicant has been given actual payment including arrears etc. from the actual date of shouldering higher responsibilities.

3. The learned counsel for the applicant submitted before us that the applicant has been granted the first relief by the department itself. He further submitted that the second relief for arrears of pay and allowances from December, 1981 to February, 1985 still subsists. From the order dated 19-5-1988 (Annexure-1 to the CA) it has been noted that the applicant had been given arrears from the actual date of shouldering responsibility i.e. 28-2-1985 when the period of punishment lapsed and it was allowed in view of the circular dated 16-10-1964 of the Railway (Annexure-2 to the CA).

4. The parties in the <sup>ir</sup> pleadings have not annexed the copy of the circular, if any, of the Railway Board

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providing for merger of the B.T. Fitter Grade with the Skilled Fitter Grade. On the contrary we find that in the rejoinder affidavit the applicant mentioned that he was promoted to the higher grade of skilled fitter on 28-2-1985. That being so, we do not find any case made out for a direction to pay to the applicant ~~from~~ December, 1981 to February, 1985. In view of the observations made hereinabove, the OA fails and is accordingly dismissed. The parties shall bear their own costs.

W.S.  
Member (A)

B.S.  
Vice Chairman

Dube/