

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

O.A. No.935 of 1987.

M.L. Gupta Applicant.

Versus

G.M. & others Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member(A)

(By Hon'ble Mr. A.B. Gorthi, A.M.)

This application is against denial of promotion to the applicant consequent to the upgradation of his post from Head Clerk to Office Superintendent Grade-II with effect from due date.

2. The applicant, who was working as a Shedman in the Office of the Senior Divisional Mechanical Engineer Central Railway, Jhansi, was medically de-categorised and given the alternative appointment of Head Clerk. He assumed the said appointment on 28.5.1984 and was absorbed in the clerical cadre with effect from that date. However, keeping in view his pasted service & even since he joined the Railway on 20.9.56, his seniority was fixed as if he became Head Clerk on 1.1.1973 and he was accordingly placed in the gradation-list above Shri Balbir Singh who became Head Clerk on 1.6.79.

3. The Railway Board vide letter No. PC II/84/UPG/9 dated 16.11.1984 (Annexure-II) announced the upgradation of certain posts including that of Head Clerk. Paras No.3 and 4 of the said communication read as under:-

" 3. For the purpose of restructuring the cadre strength as on 1.1.1984 will be taken into account and will include Rest Clerver and Leave Reserve posts.

4. Staff selected and posted against the additional higher grade posts as a result of restructuring will have their pay fixed under Rule 2018-B(FR-22C) RII w.e.f. 1.11.1984. The benefit of fixation effective from 1.1.1984 will

also be applicable to the chain/resultant vacancies. In effect, the benefit of fixation from 1.1.1984 should be given against all vacancies which arise from restructuring."

4. The short contention of the respondents is that since the applicant was not physically holding the post of Head Clerk on 1.1.1984, he was not entitled to the benefit of upgradation announced vide Annexure-II. This appears clearly unacceptable. The applicant having been made senior to Shri Balbir Singh, could not have been denied promotion which was given to his juniors including Balbir Singh. Seniority connotes certain benefits in Service Jurisprudence; one of them being promotion before any junior is promoted, other factors being common. The Railway Administration having conferred due seniority upon the applicant, and having treated him as if he became Head Clerk with effect from 1.1.1973 is not justified in denying him the benefit of promotion to the Office Superintendent, Grade-II with effect from 1.1.1984. In view of the seniority position of the applicant, he shall be deemed to be a Head Clerk with effect from 1.1.1973 and hence he is entitled to the benefit of upgradation. Accordingly, this application is allowed and the respondents are hereby directed to proceed in accordance with Divisional Railway Manager(P), Central Railway Letter No.P/410/2/Optg/Ro-St/ED dated 29.8.1985 (Annexure-III) and declare the applicant eligible for proforma fixation of pay with effect from 1.1.1984. The applicant shall, however, be entitled for payment of salary in the promoted post of Office Superintendent Grade-II from the date on which the same became payable to his junior Shri Balbir Singh. The

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application is allowed in the above terms without
any order as to cost.

[Signature]
A.M.

[Signature]
V.C.

Dated: January 21, 1992

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