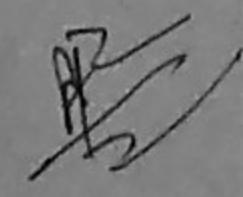


(b) 

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

O.A. No. 978 of 1987

R.D.Ram Applicant.

Versus

General Manager N.Railway & others . Respondents:

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

Hon'ble Mr. K. Obayya, A.M.

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

The applicant joined the Railway Service on 10.6.66 as an Office Clerk (LDC) and he was transferred to Allahabad Division and his seniority was fixed as per ext^tent rules i.e. below all persons appointed before 21.6.72 and as such the applicant became senior to Shri Satya Ram who joined the Railway Service on 7.7.72 as a Clerk in the same grade to which the applicant joined in the year 1972. Said Satya Ram was promoted as senior Clerk against the upgraded post of Senior Clerk in the grade of 330-560 although the applicant joined the service earlier and as such he was senior. The applicant was later on promoted as Senior Clerk in the same grade on 8.12.81. He made a representation against the same that he should be promoted against the upgraded post w.e.f. 1.1.79 being senior to said Satya Ram as the said Satya Ram was promoted with effect from that date. The applicant approached the Union which placed the matter before the Permanent Negotiating Machinery Meeting. According to the applicant, though not due promotion as Head Clerk in the grade of 425-700 as per seniority position in the grade of 330-560 then existing was promoted as Head Clerk in the grade of 425-700 as out of turn and was posted at Ghaziabad. The applicant made a representation that he was not in a position to move

out and he should be posted at Allahabad. His request was accepted and he was posted as Head Clerk at Allahabad. Later on, the applicant was released from the post of Head Clerk at Allahabad and was directed to go to Ghaziabad and he made a representation. Later on, he was again promoted as Head Clerk in the grade of 425-700 against the upgraded post w.e.f. 1.1.84 and after due deliberation, in the Permanent Negotiating Machinery Meeting, the applicant was ultimately promoted as Senior Clerk in the grade of 330-560 with retrospective effect from 1.1.79 i.e. the date on which the said Satya Ram was promoted. The grievance of the applicant is that for the purpose of selection as an Assistant Superintendent, 15 persons were called to appear in the test but the applicant was not called. Accordingly, he made a representation to include his name in the list of candidates who were called to appear in the test who were junior to him and were promoted as Assistant Superintendent, but his representation was rejected. Feeling aggrieved with the same, he approached the tribunal claiming the promotional post and the same pay scale which was given to his junior Satya Ram.

2. The respondents have resisted the claim of the applicant and they have pointed out that an offer was given to him in the year 1983 and he was posted at Ghaziabad and it is in view of this offer that it is no longer open to contend that he was senior or he was entitled to said promotional post from any date and from the date his junior was promoted. This contention would have been correct in case the applicant's seniority would not have been restored.

Ultimately, when the department decided to restore the seniority of the applicant w.e.f. 1.1.79, obviously the applicant also becomes entitled for notional promotion to the said post on which he was promoted w.e.f. 1.1.84 and his pay scale cannot be less than his juniors. Accordingly, this application is allowed to the extent that the respondents are directed to promote the applicant notionally with effect from the date he became entitled to promotion or his junior was promoted. So far as the next promotional post is concerned, the law will take its own course and the applicant will also be entitled to all consequential benefits.

NO ORDER AS TO COSTS.

Flushing
MEMBER(A)

U
VICE CHAIRMAN.

DATED: NOVEMBER 6, 1992

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