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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 523 of 1988

R.K.Ram Applicant.

Versus

Union of India & Ors. Respondents.

Hon'ble Mr. S.Das Gupta, Member-A

Hon'ble Mr. T.L.Verma , Member-J

(By Hon'ble Mr. T.L.Verma, Member-J)

This application has been filed for issuing a direction to the respondents to pay the arrears of wages with due increment for the period 23.12.1985 to 26.12.1986 after upgrading his post to the post of Head Trains Clerk and Chief Trains Clerk w.e.f. 1.1.1984.

2. The applicant joined service in the Northern Railway on 28.7.1976 as Trains Clerk. He was promoted as Senior Trains Clerk vide letter dated 30.4.1980. He was placed under suspension on 23.12.82 on account of his involvement in a murder case. This case was decided on 9.9.1986 and he was acquitted. His suspension order was revoked by the respondents vide order contained in letter dated 22.12.1986 (Annexure-1). He joined his duties w.e.f. 26.12.86. The period of his suspension was treated as on duty vide order dated 11.11.1987 (Annexure-2). Railway Board issued orders regarding restructuring of various cadres w.e.f. 1.1.1984. According to this order, the applicant was due to be promoted to the post of Head Trains Clerk w.e.f. 1.1.1984. The

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applicant has contended that he was not allowed this promotion on account of his suspension. The applicant was allowed to appear at the test for promotion to the next higher grade of Chief Trains Clerk held on 9.7.1984. According to the ~~extant~~ orders of the Railway Administration, the staff under suspension are required to be called for appearing at the test but the announcement of their result is withheld till finalisation of the case in which they are involved. The applicant claims that he was successful in the said test but he was not granted promotion because he was ~~not~~ under suspension. The grievance of the applicant is that despite his period of suspension having been ordered to be treated as period on duty by the respondents he has not been paid the difference of his salary ^{subsistence} between the ~~substantive~~ allowance allowed to him ^{h.} and the salary as due to him from time to time during the aforesaid period. He has, therefore, claimed the reliefs as mentioned above.

H 3. The respondents have contested the claim of the applicant and have stated that they have arranged to pay to the applicant the difference ^{subsistence} between the ~~substantive~~ allowance and the salary as due to him consequent upon the period of suspension being treated as duty. Regarding his promotion as Chief Trains Clerk, it has been stated that in ^{order} accordance with the ^{order}, they had called Senior Trains Clerk equal to 3 times of the number of the vacancies to appear at the interview for promotion

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to this post. The applicant was one of the persons called for interview. The requisite number of eligible Clerk were empanelled. The applicant, however, did not find place in the said panel. It was stated by the learned counsel for the respondents that the name of the applicant was not included in the panel, not because, he was under suspension, but, because, he was not found suitable for promotion on account of his confidential report of the year 1983-84 and 1984-85 were not favourable and also because of the pending criminal case against him and his being placed under suspension.

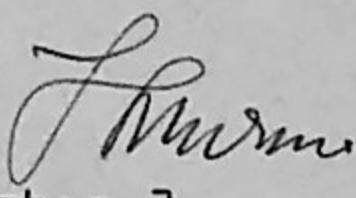
4. We have heard the rival contention and perused the record. It is apparent from para 5(A)+(B) of the Counter Affidavit that one of the reason for not promoting the applicant was his involvement in a criminal case and his being under suspension during the period 1983-84 and 1984-85. This, however, was not the only reason for not promoting him. We have perused the copy of the DPC proceeding filed by the learned counsel for the respondents and we find that the applicant was considered by the DPC for promotion. That being so, the argument of the learned counsel for the applicant that he was not considered for promotion although he was within the zone of consideration is not correct. From the copy of the DPC proceeding it also appears that in the panel only such Senior Trains Clerk, including SC candidates, have been ^{placed} empanelled who are/were senior to the applicant, hence he can not have any legitimate grievance.

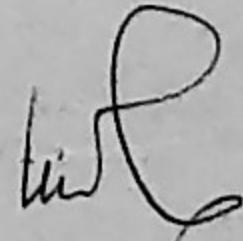
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in that behalf. There is, therefore, no merit in the case of the applicant ⁱⁿ so far ^{as} it relates to promotion to the post of Chief Trains Clerk.

5. In view of the fact that the respondents have in their Counter Affidavit stated that they are making arrangement to pay the difference between the salary due to the applicant and the subsistence allowance paid to him it would suffice to mention that in case the actual payment of this difference has not been made, the respondents should do so within 3 months from the date of service of this order. In the result, we partly allow this application and direct the respondents to make payment of the difference between the salary due and subsistence allowance paid if, payment of this difference has not already been made, within 3 months as indicated above. There will be no order as to cost.


Member-J


Member-A

Allahabad Dated: 27.5.94
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