

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Original Application no. 231 of 1990.  
Transfer Application no. \_\_\_\_\_

Date of Decision 18/12/98

Narendra Nath Sivavastava,

Petitioner

C/A S.K.Dey/S.K.Misra.

Advocate for the  
Petitioner

V E R S U S

U.O.India through Secry, Min of

Respondents.

Railways and others.

Advocate for the  
Respondents.

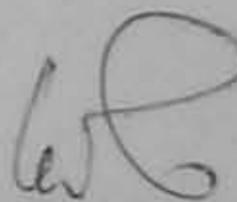
C/R A.K.Gaur.

C O R A M

Hon'ble Mr. S.Das Gupta, AM

Hon'ble Mr. T.L.Venk, JM

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordship wish to see the fair copy of the judgement ?
4. Whether to be circulated to all Bench ?

  
SIGNATURE

PIYUSH/

Reserved . *A.2  
100*

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

ALLAHABAD.

DATED THIS The 18<sup>th</sup> Day of December, 1996.

Outcome: Hon'ble M.S.S. Das, AM.  
Hon'ble Mr T.L. Vema, JM.

ORIGINAL APPLICATION NO: ~~231~~ 231 OF 1990

Sri Narendra Nath Srivastava,

Son of Late Sri Tribhuwan Nath

R/o Moghulsarai, District Varanasi.

Inspector of Works Central Eastern Railway,  
Moghulsarai, district: Varanasi.

C/A: S.K.Dey/ S.K.Misra .. Applicant.

Versus;

1. Union of India through Secretary,  
Ministry of Railways.

2. General Manager (Personnel) Eastern-  
Railway, Calcutta.

3. Divisional Railway Manager, Moghulsarai,  
District Varanasi.

.. Respondents.

C/R: A.K.Gaur

*PL*

ORDER:

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

This O.A. has been filed under Sec. 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to treat the applicant as promoted to the post of the Chief Inspector of Works since 8.4.1985 and to pay him difference of pay of the post of Chief Inspector Of Works and that of ~~the~~ the post of Inspector of Works Gde II/1.

2. The applicant was appointed on 25.2.1957 as an Apprentice Assistant Inspector of Works. On completion of apprenticeship, he joined as Assistant Inspector of Works on 9.3.1959. This post was later on re-designated as Inspector of Works Gde.III. He was promoted as Inspector of Works Gde-II by the Order dated 24.7.1981. Thereafter, by the Order dated 5.4.1985, he was posted as Inspector Of Works 2~~and~~xxxix, Moghulsarai.

3. The case of the applicant is that by the letter dated 19.10.1984 from the Chief Personnel Officer, Eastern Railways, Calcutta- the posts in every Division was pinpointed and according to this letter the post of Inspector Of Works-2, Moghulsarai was earmarked for manning by the Chief Inspector of Works. As the applicant was working on that post, he claims that he was discharging duties attached to the post of the Chief Inspector of Works from 8.4.1985, but he was being paid the salary and allowances of the post of Inspector of Works Gde.II. He was subsequently, promoted as Inspector of Works Gde I by the order dated 9.8.1988 and continued to discharge his duties on the post of Inspector Of Works 2, Moghulsarai. and -

6.

2.

instead of being paid salary and pay and allowances of the post of Chief Inspector of Works, he was paid the salary of the post of Inspector of Works Gde-I. He submitted a representation dated 4.10.1988 claiming the salary of the post of Inspector of Works Gde-I with effect from 8.4.1985. However, this representation was rejected by the Respondent No. 3, by the order dated 8.6.1989, and by the subsequent representation dated 26.8.1989, he claimed the benefit of the post of Inspector of Works Gde-I though, he was actually entitled to the benefits of the post of Chief Inspector of Works which was also rejected by the Respondent No. 3, by the letter dated 15.12.1989. Hence, this application seeking reliefs mentioned above.

4. The claim of the applicant is based on the ground that the duties discharged by him since 8.4.1985 were those of the Chief Inspector of Works and as such, he was entitled to the salary and other benefits of the post. Rejection of his claim by the respondents is wholly illegal, arbitrary and is violative of the Articles 14, 16, 23 and 39 of the Constitution of India.

5. The respondents have filed written statement in which, it has been stated that the applicant prior to his posting as Inspector of Works-2, Moghudsarai was working as Inspector of Works Gde.II (Survey).-  
*W.L.*

3.

Moghulsarai in the same pay, grade and capacity. He was actually transferred from one Unit to the other in place of Sri P.N.Chaudhary, Inspector of Works Grade-II, Moghulsarai in the Unit No.2, at Moghulsarai. It is further stated that in that Unit there were three pinpointed posts of Inspector Of Works. These three posts were in the pay scale of Rs840/- to Rs 1040/-(RS); Rs.700/-to Rs900/-(RS), and Rs 550/-to Rs 750/-(RS). The applicant was working as Inspector of Works Gde-II (Survey) in the pay scale of Rs550/-750/-(RS). He was posted in that grade in place of Sri P.N.Chaudhary, The contention of the applicant that he was discharging his duties as Chief Inspector of Works in the pay scale of Rs840/-to Rs1040/-(RS), is wholly misconceived. He was never promoted on that post and therefore, he cannot be granted the benefits of thst post. The applicant was later promoted as Inspector Grade-I in the same Unit at Moghulsarai and since then, he was discharing his duty as Inspector of Works Gr.I. He was neither promoted, nor directed to officiate on the post of Chief Inspector.

6. The applicant has sought to improve upon the averments made in O.A. by filing a Rejoinder Affidavit. He has submitted therein that although Sri P.N.Chaudhary, who was working on the post of Inspector of Works in the Unit-2 at Moghulsarai was in the grade-II as I.O.W., prior to him one Sri T.R.Thukral, was on the same post in Gr.I. Later on, one Sri P.N.Jha, was incharge of the post-

WL

4.

of Inspector of Works in Unit-1 at Moghulsarai in Grade-I of I.O.W., but prior to him one Sri M.P.Singh, was on that post in grade of Chief Inspector of Works. His further averment is that he was in overall charge of the post in support of which, he has made certain averments. The aforesaid averments were denied by the Respondent by filing a Supplementary Counter Affidavit.

7. We have heard the learned counsel for both the parties and perused the pleadings on record carefully.

8. The entire claim of the applicant is based on the letter dated 19.10.1984 issued by the Chief personnel Officer, Eastern Railway, Calcutta. A copy of this letter is at Annexure (A-4) of O.A. This letter was issued to indicate the posts of I.O.Ws in various grades as a result of re-structuring of the cadre. The appendix to this letter specifies the posts in the Divisions of Eastern Railway. In Moghulsarai Division, 3 posts have been allocated in the Chief Inspector of Works Gde in the pay scale of Rs840- 1040, There are 5 posts each in I.O.Ws Grade-I, and I.O.W. Gr-II in the pay scale of Rs700-900, and Rs550- 750 respectively. Three posts in the pay scale of Rs840-1040 have been pinpointed for DOS, M.G.S(I) and MGS(II). The applicant's claim is based on his

W.L.

posting as I.O.W. in MGS (II). His contention is that since the post of I.O.W. in this station has been pinpointed for being operated in the pay scale of Rs 840-1040., he should have been considered to have been promoted to the aforesaid grade and paid accordingly.

9. We have carefully considered the applicant's claim in the light of the materials before us. The respondents have specifically stated that the applicant was neither promoted to the higher grade of Rs 840-1040, nor was he directed to officiate on the post of Chief Inspector of Works in that grade. The applicant's contention is that he was discharging the functions of Chief Inspector of Works which has been specifically denied by the respondents. There is no material before us to indicate the duties and the responsibilities of the Chief Inspector of Works of MGS (II). The applicant's averment in the rejoinder affidavit regarding the duties he was performing in the alleged role of the Chief Inspector of Works are very sketchy. We are, therefore, unable to come to the conclusion that the applicant was actually performing his duties attached to the post of the Chief Inspector of Works, while he was actually in the grade of I.O.W. Gde II/1. It is not the applicant's case that he was promoted as Chief Inspector of Works. He has not produced any documents to indicate that he was directed to perform duties as Chief Inspector of Works as a local arrangement in which case-

... contd p/6) ..

WL

6.

he would have at least have been entitled to the salary attached to that post. In the absence of any such documentary evidence, We are unable to conclude that he was even entitled to the salary and allowances of the post of Chief Inspector of Works.

10. In view of the foregoing, We see no merit in this application and the same is dismissed leaving the parties to bear their own costs.

J. M. *J. M. Morris*  
JM.

W. E. *W. E. Williams*  
AM.

RCS/