

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No.1491 of 1992

Allahabad this the 21<sup>st</sup> day of January, 2003

Hon'ble Mr.S. Dayal, Member (A)  
Hon'ble Mr.A.K. Bhatnagar, Member (J)

Purshuram Sonkar, Son of Late Dorbal Chaudhary,  
aged about 56 years, resident of 453-A, Railway  
Stadium Colony, Gorakhpur.

Applicant

By Advocate Shri Satya Vijay

Versus

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Chief Personnel Officer, North Eastern Railway, Gorakhpur.
3. Chief Signal Telecommunication Engineer, North Eastern Railway, Gorakhpur.
4. Additional Signal Engineer, North Eastern Railway, Gorakhpur.
5. Shri Ram, Office Superintendent, I, Working under Chief Signal Telecommunication(BG) North Eastern Railway, Gorakhpur.

Respondents

By Advocate Shri A.K. Gaur  
Shri Govind Saran

O R D E R

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

This O.A. has been filed for a direction to the respondents to immediately place the applicant in the grade of Office Superintendent grade II in the pay scale of Rs.1600-2660 w.e.f. 01.01.1984 with all

his arrears of dues of salary. Further direction is sought to the respondents to fix the salary of the applicant on proforma basis in the grade of Office Superintendent, grade II w.e.f. 01.01.1984 the date when restructuring of the cadre of the ministerial staff came into effect.

2. The brief facts of the case are that the applicant was appointed on 06.06.1959 in the grade of Rs.260-400(RS) as Clerk. Thereafter the applicant was promoted as Senior Clerk in the grade of Rs.330-560(RS) on 17.04.1977 and as Head Clerk in the grade of Rs.1400-2300(RS) in the year 1982. By the order dated 06.05.1986 the applicant was confirmed as Head Clerk w.e.f.01.10.1980. The respondents again issued a seniority list in which the name of the applicant was shown below the respondent no.5 at sl.no.25. The applicant- agitated against this action of the respondents as the date of entry in the pay scale of Rs.330-560 the applicant was shown earlier than the respondent no.5. Thereafter the applicant was also not considered for the post of Office Superintendent Grade II by way of promotion. After getting no response, the applicant moved the matter through union also but, all without result. Hence, aggrieved by the action of the respondents, the applicant has filed this O.A.

3. The official respondents as well as respondent no.5 have contested the matter by filing the counter-replies. In the counters, they have mentioned that the applicant was promoted from 14.3.77

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on ad hoc basis in the grade of Rs.330.560 due to order of Hon'ble High Court on 02.11.1976. This promotion was subject to the condition that he will be reverted on the basis of orders of Hon'ble High Court or due to shrinkage of the post. Subsequently, the Writ Petition filed by the applicant was dismissed. It is further stated that the dispute regarding the seniority over the respondent no.5 has already been decided by the Central Administrative Tribunal by the Judgment dated 05.11.1992 in O.A.No.188 of 1987. The respondents have further mentioned that an O.A. filed by the applicant challenging the selection list dated 05.03.1986 was also dismissed by the Tribunal on 29.3.1993. The respondents have specifically mentioned that the post of O.S.Gr.II is a selection post and is filled by the norms of the selection. The applicant was called to appear in the selection for the post of O.S.Gr.II in the scale of Rs.1600-2660 but he was not appeared in the selection. The respondents have also contested to the O.A. on the ground of limitation.


4. On 02.12.2002 when the case was listed for hearing nobody appeared for the parties and the order was reserved on the basis of pleadings on record as this is very old case of the year 1992.

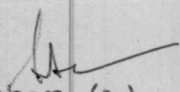
5. In view of the facts and circumstances mentioned above, we are convinced with the pleadings of the respondents that the post of O.S.Grade II is a selection post and the dispute regarding

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seniority has already been settled by the orders of the Tribunal. The O.A. challenging the selection list was also dismissed by the Tribunal on 29.03.93. We are also of the view that the O.A. is barred by res judicata as no fresh cause of action had arisen to the applicant after his matter was decided by the Tribunal. The O.A. is lacking merit and is accordingly dismissed. No order as to costs.

  
Member (J)

  
Member (A)

/M.M./