

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 20th day of July 2000.

Original Application No. 306/1992.

CORAM :- Hon'ble Mr. Justice R.R.K.Trivedi, Vice Chairman.  
Hon'ble Mr. S. Dayal, Member (A),

Suraj Deo Mal aged about 61 years,  
Son of Shri Jagat Mal, R/O Village Jogiya.  
Post Pali, District Gorakhpur

.....Applicant.

Counsel for the applicant:-Shri Bashiit Tiwari.

V R E S U S

1. Union of India through the General Manager,  
N.E. Railway, Gorakhpur.
2. General Manager Electrical, N.E.Rly. Gorakhpur.
3. Chief Engineer B.G. Construction, N.E.Rly,  
Gorakhpur.

.....Respondents.

Counsel for the respondents:-

Shri A.V.Srivastava.

ORDER

(By Hon. Mr. S. Dayal, Member (A) )

This application has been filed for seeking a direction to the respondents to give promotional benefit for the post of Chargeman - B, or subject to decision of review No. 103/1990 in T.A. NO. 166/1987 for the post of Chargeman - A on the basis of restructuring since 1-1-1984 and to pay all arrears of salary and other benefit, which is permissible in the eye of law with 20 percent interest.

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2.. The case of the applicant is that he had been promoted to the level of chargeman - C in the scale of Rs. 427-700 in 1973. However on 19-6-1978, the applicant was reverted as Mistri Grade II in the scale of Rs. 330-480. The applicant filed a Civil Suit against order of reversion dated 19-6-1978. The suit was allowed by judgement and order dated 30-9-1982. The Railway Administrative filed an appeal in the District Court which was transferred to this tribunal and was decided by this tribunal by its order dated 17-7-1990 passed in T.A. NO. 166/1987. The applicant was held entitled for promotion to the Grade of Mistri ~~in~~ in the Grade I in the scale 380-560 w.e.f. 16-6-1978 and was also held to be entitled such other benefit as admissible in accordance with law. The applicant was retired from service by order dated 7-8-1986, the claim of the applicant that he is entitled to be given promotion to the post of Chargeman-B w.e.f. 1.1.1984 on the restructured post and was entitled to be given pensionary benefit on that basis,. This claim the applicant has been denied to him.

3. Shri B.Tiwari, learned counsel for the applicant and Shri A.V.Srivastava, learned counsel for the respondents have been heard.

4. The contention for learned counsel for the applicant is that by order dated 1-5-1984, the Railway Board had issued instructions regarding cadre review and restructuring of Group C cadres w.e.f. 1-1-1984. By that order the percentage in the pay scale of Rs. 425-700 was reduced from 55-33, the percentage in the pay scale of Rs. 550 as 750 was kept the same, the percentage in Rs. 700 at 900 increased from 15 to 27 percent and the percentage

percentage in the higher Grade of Rs.840-1040 remained the same. It was stipulated in this order that the resultant and chain vacancies shall also be taken into account of order of restructuring. The learned counsel for the applicant contends that on account of increase in percentage in the scale of Rs. 700-900, some resultant vacancies ought to have arisen in the scale of Rs. 425-700 also and that the applicant was entitled to be considered for such vacancies.

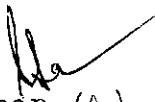
5. The respondents have filed a counter Reply in this case. They have mentioned in Para 8 - D of their counter Reply that the case of the applicant was considered for granting benefit of restructuring but the post for which the applicant was considered had been reduced and as such as per restructured strength the applicant did not come within the zone of consideration. They further mentioned that no person junior to the applicant was either given benefit under the restructuring to the post of chargeman Grade - B till the date of the retirement of the applicant.

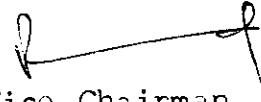
6. We have carefully considered the contentions of both the parties to this application. The learned counsel for the applicant has contended that record is available with the respondents and therefore they should show as to when vacancies arose on which the applicant could have been considered. We are unable to agree to this contention of learned counsel for the applicant. Applicant was expected to give facts in his application which would establish his claim in order to get relief Placing his claim before the respondents without adducing facts which would require the respondents to consider his case was not right on the part of the applicant. We take into consideration the fact that the averment made by



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the respondents in their counter reply has not been controverted by the applicant by means of a rejoinder. The applicant had raised this controversy in C.C.A. NO. 1393 of 91 in T.A. NO. 166/87 and by order dated 18-2-1993, a division bench of this Tribunal had found that the order of the tribunal had been complied with and there was no ground for taking action against the respondents for non-compliance. Under the circumstances, we find no merit in the claim of the applicant which is dismissed with no order as to costs.

  
Member (A)

  
Vice Chairman

/ Madhu/