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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

D.A. NO.: 820 of 1992
RCM.XNB:

DATE OF DECISION: 31st Aug 95

V. K. Gupta

-----PETITIONER(S)

Shri R. R. Srivastava

-----ADVOCATE FOR THE
PETITIONER

V E R S U S

Union of Indis Aors

-----RESPONDENT (S)

Shri Prashant Mathur


-----ADVOCATE OF THE
RESPONDENTS

C O R A M

The Hon'ble Mr. Justice B.-C. Saxena, V.C.

The Hon'ble Mr. Hon. Mr. S. Das Gupta, Member(A)

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



SIGNATURE

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

THIS THE 31st DAY OF AUGUST 1995

Original Application No. 820 of 1992

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S. DAS GUPTA, MEMBER (A)

V.K. Gupta, I.O.W (Special)
Prayag, Allahabad.

BY ADVOCATE SHRI R.R. SRIVASTAVA
Versus

...Applicant

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager Northern Railway, Allahabad
3. The Senior Divisional Personnel Officer, Northern Railway, Allahabad.
4. The Divisional Railway Manager, Northern Railway, Allahabad.

...Respondents

BY ADVOCATE SHRI PRASHANT MATHUR

O r d e r (Reserved)

JUSTICE B.C. SAKSENA, V.C.

We have heard the learned counsels for the parties. The applicant has filed this OA to challenge a letter dated 27.4.92 issued by the D.R.M, Allahabad to D.R.M Lucknow rejecting the claim of the applicant for the grant of benefit of promotion as I.O.W Gr.II in the scale Rs.550-750 from 1.1.84 as a result of upgrading.

2. The brief facts are that the applicant was working as I.O.W Gr.III at Allahabad. He sought his transfer to Lucknow Division due to some domestic reasons. His request was granted. Vide letter dated 23.3.94 he was transferred

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to the Lucknow Division on bottom seniority as per rules. It is stated that the Railway Board issued orders for restructuring of the cadre and upgrading by letter dated 1.5.84. The restructuring was to be implemented with retrospective effect from 1.1.84 and the applicant's claim is that since on that crucial date he was working in the Allahabad Division he was entitled to the upgradation. In the Allahabad Division consequent to the restructuring persons working as I.O.W Gr.III were promoted as IOW Gr.II with retrospective effect from 1.1.84. The applicant's candidature was ignored. The order for promotion were passed on the applicant's own showing in the year 1986. The applicant preferred a representation on 30.4.89. The applicant's representations were rejected lastly vide order dated 7.4.92.

3. A detailed counter affidavit has been filed on behalf of the respondents. It has been pleaded that this petition is barred by limitation since the cause of action if any had accrued to the applicant in the year 1984 and the OA was filed in the year 1991. We are not inclined to take the view that the OA is barred by limitation, in view of the fact that in 1986 the orders on the basis of restructuring were passed. The applicant preferred representations which were rejected in the year 1992.

4. It has further been pleaded in the counter affidavit that under the relevant rules the transfer on request is only permissible in the initial grade of the cadre and at bottom seniority. It is urged that the applicant's transfer from Allahabad Division to Lucknow Division on his

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request could not have been made incase the applicant had been promoted to the higher grade of Rs.550-750 which is an intermediate grade. In the Rejoinder affidavit this plea has not been controverted and we find force in the said plea.

5. In the counter affidavit it has further been indicated that although the notification dated 1.5.84 was issued by the Railway Board as a policy measure it was to be implemented in respective Railways as per the Procedure and as per the percentage of the vacancies available in different grades w.e.f. 1.1.84. It has been indicated that as per revised percentage of vacancies were reduced and as such, the benefit of upgradation was given to only 14 employees as per their seniority against the five resultant vacancies and 9 upgraded posts. It has further been averred that no person junior to the applicant was allowed the benefit of upgradation to the post of I.O.W Gr.II in the Allahabad Division. It has also been pleaded that since the applicant had joined at Lucknow Division on 26.3.84 and orders of promotion as per upgradation were passed in the year 1986, the applicant is ^{not} legally entitled to get the benefit.

6. The learned counsels for the parties have urged before us these very pleas. We find that the order of restructuring no doubt was issued by the Railway Board in May 1984 much after the applicant had joined in the Lucknow Division. ~~XXXXXXXXXX~~ The Railway Board's order do not get implemented immediately. They have to be implemented after the necessary formalities are completed but no doubt with retrospective effect from 1.1.84. The applicant on his own

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request having gone out of the cadre of I.O.W Gr.III in the Allahabad Division, his case for ^{up}/gradation could not have been considered while issuing orders in 1986. The other significant averment of fact that no person junior to the applicant have been given the benefit of restructuring in Allahabad Division having not been controverted by the applicant, We see no justification in granting relief claimed by the applicant.

7. On a conspectus of the discussion hereinabove, there is no merit in the OA, it is accordingly dismissed. Parties to bear their own costs.


MEMBER(A)


VICE CHAIRMAN

Dated: August 31st 1995

Uv/

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to the Lucknow Division on bottom seniority as per rules. It is stated that the Railway Board issued orders for restructuring of the cadre and upgrading by letter dated 1.5.84. The restructuring was to be implemented with retrospective effect from 1.1.84 and the applicant's claim is that since on that crucial date he was working in the Allahabad Division he was entitled to the upgradation. In the Allahabad Division consequent to the restructuring persons working as I.O.W Gr.III were promoted as IOW Gr.IV with retrospective effect from 1.1.84. The applicant's candidature was ignored. The order for promotion were passed on the applicant's own showing in the year 1986. The applicant preferred a representation on 30.4.92. The applicant's representations were rejected lastly by order dated 7.4.92.

3. A detailed counter affidavit has been filed on behalf of the respondents. It has been pleaded that this petition is barred by limitation since the cause of action if any had accrued to the applicant in the year 1984 and the OA was filed in the year 1991. We are not inclined to take the view that the OA is barred by limitation, in view of the fact that in 1986 the orders on the basis of restructuring were passed. The applicant preferred representations which were rejected in the year 1992.

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