

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 12th day of April 2001.

Original Application no. 1252 of 1993.

Hon'ble Mr. Rafiq Uddin, Member-J
Hon'ble Mr. S. Biswas, Member-A.

ML Rajput,
S/o Sri Baroo Mal,
WMR Grade-I,
DRM Office,
Muradabad.

R/o Qr. No. H-127-A,
Harthala Railway Colony,
MURADABAD

... Applicant

C/A Sri M.K. Updhayaya

Versus

1. Union of India through the General Manager,

N. Rly., Baroda House,

NEW DELHI.

2. The Divisional Railway Manager,

N. Rly.,

MURADABAD.

... Respondents

C/Rs Sri A.V. Srivastava

Rn

... 2/-

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O R D E R (Oral)

Hon'ble Mr. Rafiq Uddin, Member-J.

The applicant has filed this OA for quashing order dated 10.1.91 (annexure A-1) and also sought direction to treat the applicant having been promoted w.e.f. 15.12.78 on the post which fell vacant on account of death of incumbent Sri R.P. Sehgal taking the sanctioned number of posts as two as a result of restructuring orders with all consequential benefits.

By the said order dated 10.1.91, the claim of the applicant for promotion to the post of WMR Grade I w.e.f. 15.12.78 has been rejected by the respondents.

2. Briefly stated the facts of the case are that the applicant at the relevant time was holding the post of WMR Grade III in the pay scale of Rs. 110 - 180. As per seniority list dated 22.1.70 (annexure A4) the applicant has been assigned seniority at s. no. 6. The applicant was promoted as WMR Grade II vide order dated 13.7.79 with the benefit of officiating w.e.f. 1.8.78. The grievance of the applicant is that as a result of enhanced percentage mentioned in the order dated 24.8.78 (annexure A3) the strength of the category of the WMR was revised and which works out as under :-

"Prescribed percentage : 20:25:55
sanctioned strength : 8
Distribution of posts/grades, with the implementation of the aforesaid percentage :-

RJ

...3/-

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WMR Gr. I Rs. 380-560 $\frac{20 \times 8}{100} = 1.6$ = Two posts

WMR Gr. II Rs. 330-480 $\frac{25 \times 8}{100} = 2$ = Two posts

WMR Gr. III Rs. 260-400 $\frac{55 \times 8}{100} = 4.4$ = Four posts

0.5 and above is taken as one by rounding off and below 0.5 is dropped."

Thus the number of posts in the scale of Rs. 380-560 i.e. WMR Grade I works out ^{to} two. The respondents did not increase the strength of WMR Gr. I post taking it as only one. Thus they have not implemented their own orders dated 24.8.78 which resulted in injustice to the applicant, because the applicant being the next senior person in way, he was eligible to be considered for promotion on the aforesaid enhanced aforesaid order because he has already passed trade test for Gr. I post on 29.2.80.

3. We have heard learned counsel for the parties and perused the record.

4. It has been pointed out by learned counsel for the respondents on the basis of pleadings in their counter affidavit that there were only one post of WMR Gr. I in the pay scale of Rs. 380-560 on 1.8.78 which remains till 22.385. It is stated that against the single post/one RP Sehgal the next man in seniority list i.e. AS Arora was promoted as WMR Gr. I against the said vacancy. It is further clarified that at the relevant time admittedly the applicant was working as WMR Gr. III in the pay scale of Rs. 110- 180 he was eligible and due for promotion as WMR Gr II in the

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pay scale of Rs. 330 - 480 w.e.f. 1.8.78. The applicant was accordingly promoted as WMR Gr. II in the pay scale of Rs. 330-480 w.e.f. 1.8.78. Thus the case of the respondents is two fold; ~~as~~ There was only one post available for promotion as WMR Gr. I in the pay scale of Rs. 380-560, secondly the applicant was not eligible for promotion/in the pay scale of Rs. 380-560.

5. We find from the perusal of the pleadings that the applicant was admittedly working as WMR Gr. III in the pay scale of Rs. 110- 180 at the relevant time of artixen staff classification of skilled workers w.e.f. 1.8.78 vide order dated 24.8.78 (annexure A3). Therefore, the question of his promotion to the post of WMR Gr. I in the pay scale of Rs. 380-560 at that point of time does not arise. In other words, the applicant was not within the zone of consideration for promotion as WMR Gr. I in the pay scale of Rs. 380-560 in the year 1978. We hold that the claim of the applicant for promotion to the post of WMR Gr. I has been rightly rejected by the respondents. We do not find any merit in the OA, the same is dismissed. No order as to costs.


Member-A


Member-J

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