

Open court.

CENTRAL ADMINISTRATIVE TRIBUNAL ADDL BENCH,
ALIAHABAD.

...
Dated This the 28th February, 1997.

Hon'ble Dr .R.K.Saxena, JM.

ORIGINAL APPLICATION NO: 1825 OF 1993.

Dina Nath Tiwari son of
Sri Ghasi Ram Tiwari, resident of;
No: 119/74(61), Mannu Lal -ka- Hata,
Nashimabad, Kanpur Mahanagar.

... Applicant.

(C/A Sri B.N.Singh,Advocate)

VERSUS :

1. Union of India through General Manager,
Northern Railway, Baroda House,
New Delhi.

2. Divisional Rail Manager,
Northern Railway,
Allahabad.

... Respondents.

(C/Respt:Sri A.K.Shukla.)

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Open court.

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ORDER (ORAL).

By : Dr. R.K. Saxena, Member (J).

Sri D.N.Tiwari, applicant has filed this O.A for seeking a direction to the respondents to place the applicant in the scale of pay of Head clerk, Assistant Superintendent / Chief Clerk and office Superintendent from the date when the juniors were promoted, and a direction was sought about the payment of salary and other allowances.

2. The brief facts giving rise to this case, are that the applicant was working under the respondents as a Senior clerk Northern Railway at Kanpur. He was transferred from Kanpur to Allahabad on 14.1.1981 without any order of transfer being given to him. The applicant appears to have preferred a case before the Industrial Tribunal, Kanpur challenging the said transfer. The matter was registered as I.D.No. 59/83. The Tribunal however, quashed the order of transfer by an award which was notified on 7.10.1985. The present respondents feeling aggrieved by the said award filed a Writ petition No: 19243 of 1985 in the High Court where the interim stay order was granted on 17.12.1985. The said stay order was subsequently modified on 23.11.1987 whereby the present respondents were directed to make payment of the entire arrears to the present applicant within a period of 3 weeks on his joining duty. The petition is stated to be still pending before the High court.

3. The contention of the applicant is that his juniors were promoted as Head clerk but the promotion of the applicant was denied simply on the ground that the Writ petition which was filed by the present respondents

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challenging the cancellation of the order of transfer, was pending in the High court. His further contention is that one Sri R.N.Pandey, is junior to the applicant and he was promoted as Head clerk on 6.9.1982. It is further averred that subsequently the applicant was also promoted with effect from 12.5.1988. He therefore, seeks that the date of promotion of the applicant be advanced to the date when his junior was promoted. It appears that the matter was represented to the respondents but with no result hence, this O.A. with the aforesaid relief.

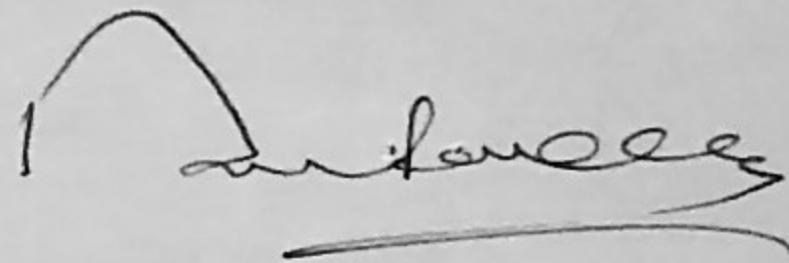
4. The respondents have contested the case on several grounds but the main ground is that because the Writ petition was pending before the High court, the relief sought by the applicant was not possible to be granted. I have heard the learned counsel Sri B.N.Singh, counsel for the applicant and Sri A.K.Shukla, Counsel for the respondents.

5. The contention of Sri B.N.Singh is that the applicant had been promoted as Head clerk with effect from 12.5.1988 whereas, he should have been promoted, if not earlier at least from the date i.e from 6.9.82 when his junior Sri R.N.Pandey was promoted. Sri A.K. Shukla, is still ~~twisting~~ ^{dismissing the plea} to link that the promotion cannot be granted because the Writ petition was pending. He has fairly conceded that the writ petition pending before the High court, was in ~~any~~ ^{not} manner connected either with the promotion of the applicant, or with respect to any departmental proceedings against him. He also admits that the applicant is not suffering from any such infirmity which may disqualify him from promotion.

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He was however, granted promotion but after about six years from the date when his junior Sri R.N.Pandey, was promoted. In such a situation, I do not find any reason as to how the respondents have denied the pay scale of Head Clerk to the applicant with effect from 6.9.1982.

6. On the consideration of the facts and the circumstances of the case, the respondents are directed to place the applicant in the grade of Head Clerk with effect from 6.9.1982 from the date when his junior Sri R.N.Pandey, was placed. The arrears of pay and also the consequential benefits may be made available to the applicant. The O.A. is disposed of accordingly. No orders as to the Cost.



MEMBER (J).

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