

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 10th day of March, 1997

Coram : Hon'ble Mr. S. Das Gupta, Member-A
Hon'ble Mr. T. L. Verma, Member-J

Original application No. 1871 of 1993

Sri Pal Yadav s/o. Jai Karan, R/o.
Village Bela Ahiran Post Bharatganj,
Allahabad. Applicant.

(Counsel Sri Satish Dwivedi)

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. Divisional Rail Manager,
Northern Railway, Allahabad.
3. The Divisional Engineer (Engineering),
Northern Railways, Allahabad.
4. The Assistant Engineer, (I)?
Northern Railways, Allahabad.

..... Respondents.

(Through counsel Sri A. K. Shukla)

ORDER

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

Through this application under Section 19 of
the Administrative Tribunals Act, 1985, the applicant
seeks a direction to the respondents to regularise /
confirm his services on the post of Truck Driver and to

give him all benefits attached to the post with effect from the date of his appointment. He also seeks a direction to the respondents to promote him to the selection grade and to give him the benefit of promotion from the date of promotion/upgradation of junior persons namely Sri Trilok Singh and Shri Shyam Lal.

2. The applicant's case is that he has been working as a Truck Driver in the Engineering Department of North Railway since 11.1.1968 and all through his performance has been excellent. However, while Shri Trilok Singh and Shri Shyam Lal who were appointed as Truck Driver subsequent to the applicant were given higher grade, the applicant was not given the same benefit. He made a representation dated 19.6.1985 followed by various representations, last of which was dated 1.11.1993. Failing to elicit any response he has approached this Tribunal for the reliefs aforementioned.

3. The respondents have filed a counter-affidavit in which it has been stated that the applicant was appointed as Casual Employee and he alongwith other casual employees were orally asked to appear for screening and empanelment in Class IV. It is alleged that while the other employees appeared in the screening test and were empanelled and regularised, the applicant did not appear in the screening test and therefore, could not be regularised nor granted promotion. It has not been denied that Shri Trilok Singh and Sri Shyam Lal were juniors to the applicant as Casual employees, but it has been asserted that

since they had appeared in the screening test and were subsequently regularised, they were given promotion to the Selection Grade.

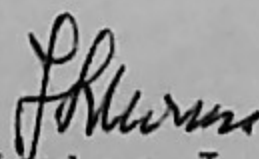
4. The applicant has filed a Rejoinder Affidavit in which he has denied that he was ever called for screening test. It, however, appears from Annexure-2 to the Rejoinder-Affidavit that subsequently the respondents have both regularised the services of the applicant and given promotion to him with effect from 1.3.1993. What, therefore, remains for us to decide is whether he should have been granted promotion from the date his juniors were promoted.

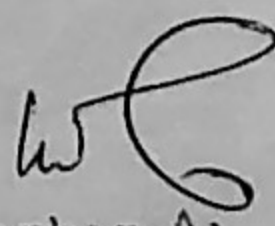
5. The respondents have stated that the applicant was orally directed for appearing in the screening test. To a specific question put ~~forth~~ by us to the learned counsel for the respondents, he admitted that there was no written notice to the applicant to appear in the screening test. It is common knowledge that for screening test in the Railways, a notification is issued in which the names of the persons to be screened are indicated and they are officially directed to appear. In view of this the assertion that the applicant was orally asked to appear in the screening test does not appear to be credible. This has also been vehemently denied by the applicant in his Rejoinder Affidavit. In absence of any document indicating that the applicant was actually called for screening test, we are unable to

accept the contention of the respondents. We are, therefore, of the view that there has been omission on the part of the respondents in calling the applicant for regularisation and therefore, he is entitled to the relief prayed for.

6. We have taken note of the fact that the alleged promotion of his juniors must have taken place prior to 19.6.1985 as this was the date on which his first representation was submitted. We therefore, can not allow the applicant any benefit of arrears of wages which is barred by limitation.

7. In view of the foregoing we dispose of the application with a direction to the respondents to grant promotion to the applicant to the higher grade notionally from the date when Sri Trilok Singh and Sri Shyam Lal were granted such promotion and re-fix both his seniority as well as his pay on the basis of such notional promotion. He shall also be entitled to payment of arrears for the period with effect from 15.12.1992 i.e. a period one year prior to the date of filing of this application. Parties shall bear their own costs.


Member-J


Member-A

(Pandey)