

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO.125 OF 1993

Allahabad, this the 27th day of June, 1999.

CORAM : Hon'ble Mr.S.Dayal, Member(A)  
Hon'ble Mr.S.K.Agrawal, Member(J)

Shri M.Oraon

Chief Parcel Supervisor,

Northern Railway Tundla

District Firozabad

.....Applicant

By Shri Arvind Kumar, Advocate

Versus

1. Union of India through  
the General Manager,  
Northern Railway Baroda House,  
New Delhi.
2. Divisional Railway Manager,  
Northern Railway,  
Allahabad.
3. Shri Ubaidur Rahman,  
Asstt. Commercial Manager,  
DRM Office, N.Rly,  
Allahabad.
4. Sri Vinod Kumar,  
Asstt. Commercial Manager,  
DRM Office, Northern Rly,  
Allahabad.
5. Sri Tula Ram ,  
Chief Booking Supervisor,  
Northern Railway Sikchabad,  
District Ferozabad.
6. Sri Rakesh Kumar Srivastava, O.S.I.  
Under Sr.D.C.M., DRM Office,  
Northern Railway, Allahabad.
7. Sri Rajesh Kumar Srivastava,  
Chief Booking Supervisor,  
Rly.Station, N.Rly., Allahabad.

contd.../2p

8. Sri Chandrika Prasad, O.D.E.C.  
Under Senior D.C.M. Commercial Branch,  
DRM Office,,  
Allahabad.
9. Sri Sant Ram,  
Chief Parcel Supervisor,  
Rly. Station, Northern Rly.  
Kanpur Central, Kanpur.
10. Sri U.V. S. Prabhakar,  
Chief Booking Supervisor,  
Railway Station, Tundla.
11. Sri Ashok Kumar Gupta,  
Chief Booking Supervisor (Ticket Stock),  
Kanpur Central Station,  
Northern Rly. Kanpur.
12. Sri Ram Avtar,  
Chief Parcel Supervisor,  
Railway Station, Etawah.
13. Sri H. S. Pandey  
Chief Parcel Supervisor,  
Railway Station,  
Kanpur Central, Kanpur.
14. Sri V.K. Verma,  
Chief Parcel Supervisor,  
Allahabad Railway Station,  
Allahabad.
15. Sri D.N. Dubey,  
Chief Booking Supervisor,  
Railway Station, Northern Rly,  
Allahabad.
16. Sri Jitendra Varshney,  
Chief Booking Supervisor,  
Railway Station,  
Northern Railway,  
Aligarh.
17. Sri Brij Kishore,  
Chief Booking Supervisor,  
Northern Rly.,  
Railway Station, Kanpur Central,  
Kanpur.
18. Sri Bandey Oraon,  
Chief Booking Supervisor,  
Railway Station,  
Northern Railway, Mirzapur.
19. Sri H. R. Wagle,  
Chief Booking Supervisor,  
(Accounts), Railway Station,  
Northern Railway, Allahabad.
20. Shri Puran Chand, Chief Booking Supervisor,  
Railway Station, N. Rly., Ferozabad.

..... Respondents.

By Shri P. Mathur, Advocate.

O R D E R

(By Hon'ble Mr.S.K.Agrawal, Member(J) )

In this original application the applicant makes a prayer to refix the seniority of the applicant treating him in the grade of Rs.2000-3200 w.e.f. 2.7.82 with all consequential benefits keeping in view the refixed seniority.

2. In short the case of the applicant is that applicant was given adhoc promotion with effect from 2.7.82 in the grade of Rs.700-900 but he was illegally reverted in the grade of Rs.550-750 w.e.f. 22-6-83 and his name did not find place in the panel for promotion under restructuring scheme thereby large number of persons junior to the applicant who were in the grade of Rs.455-700 or in the grade of Rs.550-750 were promoted in the grade of Rs.2000-3200 w.e.f. 1-1-84 on restructuring and became senior to the applicant.

3. It is stated that applicant was not assigned correct seniority on the basis of grade Rs.700-900 w.e.f. 2.7.82. If correct seniority was assigned to the applicant he could have a chance to appear in selection of 1989 and if the applicant is getting promotion w.e.f. 1.1.84 he would have been given chance to appear in selection of 1989, 1993 and 1995 for group 'B' post.

4. Counter was filed. It is stated in the counter that the applicant was given adhoc promotion w.e.f. 5.8.82. As his work was not found satisfactory during 18 months of the period of promotion, therefore he was

contd..../4p

reverted in the grade of Rs.550-750 w.e.f. 22.6.83 and no notice of show cause is necessary in such a case. It is further stated that because of adverse ACR for the period ending 31.3.83 the applicant's name could not find place in the panel under cadre of restructuring w.e.f. 1.1.84. No representation was received by the respondents from the applicant for the same. It is also stated that applicant was working on adhoc basis. Therefore, he is not entitled to any seniority above the selected staff. The applicant has been assigned correct seniority from the date he was actually empanelled and promoted i.e. w.e.f. 12.2.88 in the grade of Rs.2000-3200 and he is not entitled to any relief sought for.

5. Rejoinder was filed. In the rejoinder it has been made clear that in the first six months of the period of promotion there was nothing adverse against the applicant. It is only during the inspection of D.C.S. some minor short-comings were found in the working of the applicant, for which he was warned. It is also stated that there was no adverse confidential report against the applicant for the year ending 31.3.83. Therefore denying the promotion to the applicant under the restructuring scheme was arbitrary and not sustainable in law.

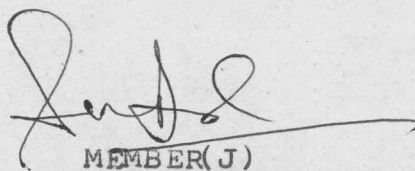
6. Heard the learned lawyer for the parties, and also perused the whole record.

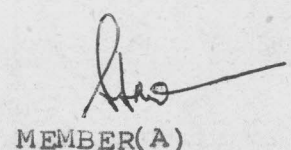
7. It appears that the applicant was promoted in the grade of Rs.700-900 on 5.8.82 on adhoc basis and he was reverted in the grade of Rs.550-750 w.e.f. 22.6.83

on the ground that his work was not found satisfactory during this promotion period. The adverse report against the applicant on higher post cannot be used as adverse against the applicant for consideration of lower grade post, otherwise it will be dual punishment. Nothing has been shown as adverse against the applicant while he was working in the grade of Rs.550-750. It also appears that under restructuring scheme the persons junior to the applicant who were in the grade of Rs.450-700 and persons in the grade of Rs.550-750 were empanelled and promoted in the grade of Rs.700-900 w.e.f. 1.1.1984, but the applicant was not considered for promotion. Therefore denial of promotion to the applicant under restructuring scheme w.e.f. 1-1-1984 appears to be arbitrary and not in accordance with the rules. Therefore not sustainable in law.

8. We, therefore allow this original application in part and direct the respondents to consider the applicant for promotion w.e.f. 1.1.84 in the grade of Rs.700-900 (Rs.2000-3200) under restructuring scheme and pay him arrears of salary with all consequential benefits keeping in view the promotion of the applicant w.e.f. 1.1.84 in the grade of Rs.2000-3200.

9. No order as to costs.

  
MEMBER(J)

  
MEMBER(A)

satya/