

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHBAD BENCH
ALLAHABAD.

Allahabad this the 3rd day of July, 2000.

Original Application no. 1381 of 1994.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member
Hon'ble Mr. M.F. Singh, Judicial Member

Zamil Beg, S/o Shri Mahammad Yusuf,
Working as Fitter Grade-I, Loco Shed,
N.E. Railway, Kasshganj, Izatnagar Divi,
R/o Mohalla Mohan Gali Awadh Behari,
Post Office Kashganj, Distt. Etah.

... Applicant.

C/A Shri A.K. Dave
Shri H.P. Chakorvorti

Versus

1. The Union of India, through Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The General Manager, North East Railway,
Gorakhpur.
3. The Divisional Railway Manager, N.E. Rly.,
Izzat Nagar

... Respondents.

C/Rs Shri J.N. Singh

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ORDER

Hon'ble Mr. M.P. Singh, Member-A.

The applicant has challenged the order dated 28.12.1993 passed by respondent no. 3, whereby denying him the benefit of restructuring policy, effective from 01.03.1993.

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2. The brief facts of the case are that the applicant joined the railway service as L.R. Khalasi on 19.05.1961. He was promoted to the post of Highly Skilled Fitter Gr. II on 11.07.1979 and is presently working as highly skilled Grade -I with effect from 01.01.1984. As per seniority list dated 01.04.1990 (Annexure A2) of Fitter Gr - I, the name of the applicant appears at sl. no. 11. On introduction of restructuring scheme of Group 'C' & 'D' categories by letter dated 27.01.1993, the applicant became due for further promotion as Master Craftman w.e.f. 01.03.1993. According to the applicant, he was eligible and ^{was} in the consideration zone and fulfilled the criteria like seniority and service record for promotion to the post of Master Craftman. Respondent no. 3 vide its order dated 4/7-09-1993, promoted Radhey Shyam and Kalloo to the post of Master Craftman Fitter in the pay scale of Rs. 1400 - 2300. These promotions were made to fill up the vacancies which arose due to restructuring scheme of Group 'C' & 'D' posts.

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Both the persons promoted under this scheme were junior to the applicant and their names appear in the seniority list at Sl. no. 14 and 28 respectively (Annexure A-2). According to the applicant, the selection process under the restructuring scheme stands modified to the extent that it will be based only on scrutiny or service record and confidential report, without holding any written and/or viva voce test. Since the junior persons were promoted to the grade of Master Craftman, the applicant had submitted his representations on 06.12.1993 and 14.12.1993 for redressal of his grievance. The representations of the applicant were rejected vide order dated 28.12.1993 (Annexure A-1). Aggrieved by this the applicant has filed this O.A. seeking relief by praying that the order dated 24.12.1993 be quashed and direction be issued to the respondents to grant him the benefit of fixation of pay in the pay scale of Rs. 1400 - 2300 as Master Craftman w.e.f 01.03.1993 with all consequential benefits and arrears of salary.

3. The respondents have contested the case and have stated that restructuring orders with effect from 01.03.1993 were implemented as per Railway Board's letter dated 27.01.1993. Due to restructuring orders in the Fitter categories two more posts of Master Craftsman ^{were created.} w/s filled by the willing employees, working in skilled group Grade I who

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have completed 10 years of continuous service in the same or allied trades in the skilled II & III inclusive of a period of at least three years service in skilled grade - I. In order to fill up these post, of Master Craftsman, the applications were called from the willing employees of grade - I who have completed terms and conditions mentioned above by notification dated 20.04.1993. The applicant did not apply for the same so his name was not considered accordingly. The Railway Board had earlier ordered to conduct the trade test and suitability test under restructuring, but further it was withdrawn and promotions were made on the basis of confidential reports.

4. Heard Shri A.K. Dave, learned counsel for the applicant and Shri J.N. Singh, learned counsel for the respondents and perused the record.

5. It is an admitted fact that 2 vacancies which were filled up by promotion of Shri Radhey Shyam and Shri Kalloo, arose on account of restructuring scheme of Group 'C' and 'D' post on 01.03.1993. It is also not in dispute that both the persons namely Shri Radhey Shyam and Shri Kalloo were junior to the applicant, as per seniority list dated 01.04.1990 (Annexure A-2).

6. According to para 4 of Railway Board's letter dated 27.01.1993, the existing classification to the post, covered by these restructuring orders as 'selection' and 'non selection' as the case

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may be, remain unchanged. However, for the purpose of implementation of these orders, if an individual Railway servant become, due for promotion to a post classified as a selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service records and Confidential Reports without holding any written and or viva voce test. These instructions further provide that the categorisation as 'Out-Standing' will not figure in the panels. This modified selection procedure has been decided upon by the Ministry of Railways as a one time exception by special dispensation in view of the members involved, with the objective of expediting the implementation of these orders. The vacancies existing on 01.03.1993 except direct recruitment quota and those arising on that date from this cadre restructuring including chain/resultant vacancies should be filled by following this procedure. All the vacancies arising from 02.03.1993 will be filled by normal selection procedure.

7. As per para 5 of the aforesaid Railway Board's letter while implementing the re-structuring orders instructions regarding minimum period of service for promotion with grade 'C' issued under Board's letter no. E(NG)183/PM-1/12 (RRC) dated 19.02.1987 and Board's letter no. E(NG)1/75/PM-1/44 dated 26.05.1984 will stand modified to the extent that the minimum eligibility period for the first promotion for filling up vacancies

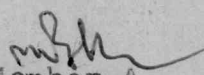
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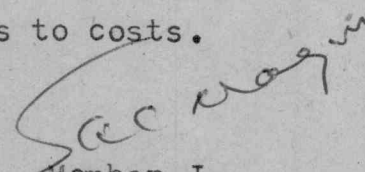
would be reduced to one year as a one time exception. Thereafter, the normal minimum eligibility condition of 2 years will apply.

8. The contention of the respondents that the post of Master Craftsman is filled by calling applications from the willing employees working in Skilled Grade - I can not be accepted as no documents has been filed, by them in support of their claim. In fact the learned counsel for the respondents conceded during the course of the argument that the applicant is senior to both S/Shri Radhey Shyam and Shri Kalloo who have been promoted to the grade of Master Craftsman. He also could not bring to our notice any rule which provides that promotion would be made by inviting applications from the willing employees only.

9. In view of the aforesaid reasons and facts and circumstances of the case, the O.A. merits consideration and is accordingly allowed. The impugned order 28.12.1993 passed by the respondents (Annexure A-1) is quashed and set aside. The respondents are directed to re-consider the whole matter in the light of the above observations and consider the applicant for promotion to the post of Master Craftsman in the pay scale of Rs. 1400 - 2300 with effect from 01.03.1993 within a period of 3 months from the date of communication of this order.

10. There shall be no order as to costs.


Member-A


Member-J

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