

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1751 of 1994

Allahabad this the 08th day of January, 2002

Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. Rafiquddin, Member (J)

Agam Prakash, aged about 59 years, S/o Shri B.M. Sahai, R/o 184, Qila Khera Ujhani, Dist. Badaun.

By Advocate Shri R.K. Nigam

Applicant

Versus

1. Union of India through General Manager, HQ Office, N.Rly. Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, DRM's Office, Moradabad.

Respondents

By Advocate Shri A.V. Srivastava

O_R_D_E_R (Oral)

By Hon'ble Mr.S. Dayal, Member (A)

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to treat the applicant as promoted as C.P.I through the modified selection in terms of Railway Board's letter dated 16.11.1984 and to grant him all the consequential benefits.

2. The case of the applicant is that a restructuring of cadre took place vide Railway Board's letter dated 16.11.84 whereby 30% of the strength of Personnel

Inspector was to be upgraded to the ~~scale~~ of Rs.700-900 (Rs2000-3200). The strength of Personnel Inspector on 01.01.1984 was 12 and, therefore, 30% rounded to the nearest number came to 4 and the post of Chief Personnel Inspector automatically stood upgraded w.e.f.01.1.1984. The respondents, however, considered that only 3 posts stood upgraded and promoted only 3 persons as Chief Personnel Inspector in 1985 by the method of modified selection, requiring only consideration of record without any written examination or viva voce. It is claimed that if the fourth post was filled up, the applicant would have been promoted on the restructured post by method of modified selection. This gives rise to the present application.

3. We have heard the arguments of Shri R.K. Nigam, counsel for the applicant and Shri A.V. Srivastava, counsel for the respondents.

4. Learned counsel for the applicant has shown that by letter dated 05.04.91 of Senior Divisional Accounts Officer, Moradabad, the post in the grade of Rs.700-900 (Rs2000-3200) were taken to be 4(ann.-3) The applicant had made a representation on 14.02.94 that he was entitled to be promoted to the grade of Rs.2000-3200/- w.e.f.01.01.1984 against the restructured post by modified selection method.

5. The respondents in denying the claim of the applicant have drawn our attention to the letter dated 14.12.1994 of Divisional Railway

Manager, Northern Railway, Moradabad, in which applicant's representation dated 18.10.1994 was replied to by letter dated 14.12.1994 stating therein that the applicant was not entitled to the benefit of upgradation of restructured post w.e.f. 01.01.1984 because the panel ^{had} ~~expired~~ in August, 1987. It is further stated that the applicant was called to appear in the Selection held on 19.1.1987, but he could not qualify in the viva voce test.

6. The main issue here is that the restructured post of Chief Personnel Inspector was subsequently allowed as 30% of total of 12, and was created w.e.f. 01.01.1984. Therefore, the right of the applicant on this post w.e.f. 01.01.1984 had to be examined by the respondents. We find that the other persons who were promoted against the restructured post Dev Nath namely S/Shri P. S. Shukla, ~~Shiv Kumar~~ and Lalita Prasad are said to have been promoted on the basis of selection held in 1985. The applicant was entitled to consider ^{also} for promotion on the same basis on which these three persons were selected and promoted against the restructured post. This has not been done by the respondents.

7. We, therefore, direct the respondents to consider the applicant for the 4th post on the same basis as S/Shri P.S. Shukla, ~~Shiv Kumar~~ and Lalita Prasad were considered, provided the applicant's seniority stood immediately after these three persons or the applicant was within the

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zone of consideration for the upgraded post in the year 1985 w.e.f. 01.01.1984. If the applicant is found entitled to promotion w.e.f. 01.01.1984, he shall be granted proforma promotion from 01.01.1984 to 21.12.1993 and his pay as on 21.12.1993 shall be re-fixed by giving him proforma promotion from 01.01.1984. His pensionary benefits shall also be given to him accordingly. With the above direction, we further laid down that the compliance shall be done within a period of 4 months from the date of receipt of a copy of this order. There will be no order as to cost.

Ravinder

Member (J)

Asw

Member (A)

/M.M./