

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 19th day of March, 98.

O.A. No. 272/94

HON. MR. S. DAYAL MEMBER(A)

HON. MR. J.P. SHARMA, MEMBER(J)

Prem Narain Agrawal son of late Ram Partap Agarwal, aged about 62 years, resident of 1st floor of shop no. 147, Shyamganj Bazar, near old hop of bhang, Bareilly, U.P.

Applicant.

Applicant in person.

versus

1. Union of India through the G.M., N.E. Railway, Gorakhpur, U.P.

2. The Chief Personnel Officer, N.E. Railway, Gorakhpur.

3. Deleted.

4. The Chief Workshop Manager, N.E. Rly, Izatnagar, Bareilly, U.P.

5. Shri Amitab Kharey son of not known (the then D.P.O., N.E. Rly. Gorakhpur under Chief Personnel Officer, N.E. Rly. Gorakhpur, U.P.

6. Shri Dhani Ram son of not known, Superintendent/Typist (incharge of the type section) Divisional Personnel Office, N.E. Rly. Izatnagar, Bareilly, U.P.

Respondents.

By Advocate Km Sadhna Srivastava

HON. MR. S. DAYAL MEMBER(A)

O R D E R (ORAT.)

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant has come to this Tribunal seeking the relief of promotion in the grade of Rs 2000-3200 since 1.12.88 with arrears alongwith future pensionary benefits.

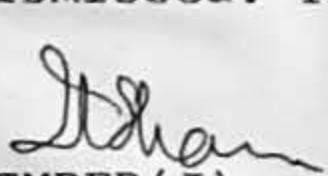
3. The facts, as given in the application are that Shri Prem Narain Agrawal was not promoted as Superintendent Typist in the grade of Rs 2000-3200 on 1.12.88 but Shri Dhani Ram ^{who was junior to the applicant} was promoted in lieu of the applicant and was given emoluments in the grade of Rs 2000-3200 with effect from 1.12.88. The applicant claims that the reason for not promoting him on 1.12.88 has not been given by the respondents to him and no action was taken on his application for promotion in the scale of Rs 2000-3200 from 1.12.88 despite several reminders. He claims that he sent a notice to Govt. of India and only after receiving the notice he was promoted as Superintendent Typist in the scale of Rs 2000-3200 with effect from 9.9.89 instead of 1.12.88. The applicant further mentions that he was involved in 3 R.P. U.P. Act in theft case of Rs 14/- and was punished/fined on 14.12.89 by Railway Magistrate Bareilly and was later acquitted in an appeal vide judgment dated 23.12.89. Thereafter his representations have not been able to help him in getting the relief asked for by him.

4. The learned counsel for the respondents has drawn attention to Annexure A-3 of the O.A. which has been filed by the applicant ~~himself in which~~ Dhani Ram has been sanctioned officiating allowance by order dated 19.12.88 from the date after 45 days of his assumption of charge. The applicant has challenged the order dated 12.8.93 of respondent No. 4 in which the applicant has been given proforma promotion with effect from 2.2.89 which was the date of promotion of Shri Dhaniram.

5. The applicant was squarely asked as to the date of promotion and he could show only the order filed by him as Annexure -3 in which officiating allowance has been given to Shri Dhaniram. He has admittedly not worked as Superintendent Typist before assumption of charge on 9.9.89. He has been given the benefit of proforma promotion and his pay has been fixed based on such promotion.

6. The applicant has cited the judgment of Principal Bench in (1988) 6, A.T.C, 368 in which it was held that if junior persons were promoted, senior persons who may be outside regular line of promotion would ~~be~~ become entitled to benefit immediately on promotion of juniors against a non-fortuitous vacancy even if junior's promotion is adhoc or on deputation.. The facts of this case are different from the case cited and the ratio is not applicable. The learned counsel for the respondents has cited the judgment of the apex court in Ranchhodji Chaturji Thakore vs. Superintending Engineer, Gujarat Electricity Board, Himmatnagar (Gjarat) and another 1997 (10, A.T.C. 167, in which it has been mentioned that when the applicant involved in a crime under section 302 read with section 34 IPC, was convicted and dismissed and was reinstated with continuity of service, he was ~~not~~ entitled to claim for back wages because he had involved himself in a crime , though he was later acquitted, he had disabled himself from rendering the service on account of conviction and incarceration in jail. This judgment of the apex court would also ~~not~~ be applicable to the facts of this case.

7. We do not find that the applicant is entitled to relief he has asled for. The application is therefore, dismissed. There shall be no order as to costs.


MEMBER (J)

Allahabad, dated 10.3.98.
Shakeel/


MEMBER (A)