

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 330 of 1994

Allahabad this the 31st day of May, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)
Hon'ble Mr.M.P. Singh, Member (A)

1. P.K. Awasthi CTA/CORE/Allahabad.
2. Ashok Kumar SEFO/CRS/Allahabad.
3. G.P. Sharma SEFO/Chg/Kanpur.
4. M.K.H. Siddiqui SEFO/Chg/Allahabad.
5. S.N. Tiwari DTLI/Allahabad.
6. K.S. Yadav SEFO/PS/Tundla.
7. A.N. Sharma SEFO/PS/Kanpur.
8. Mohammad Tahir SEFO/C/Kanpur.
9. Subodh Kumar Srivastava SEFO/PS/Allahabad.
10. V.N.P. Yadav SEFO/C/Allahabad.
11. Ajeet Singh SEFO/AC/Allahabad.
12. P.S. Tewari SEFO/Plants/Allahabad.

Applicants

By Advocate Shri A.S. Diwaker

Versus

1. Union of India through General Manager,
N.Rly./Hd.Qtr.Office/Baroda House, New Delhi.
2. Chief Personnel Officer, N.Rly.Hd.Qtr./Head
Office, New Delhi.
3. Divisional Railway Manager, N.Rly.Allahabad.

Respondents

By Advocate Shri G.P. Agrawal

By Advocate Shri G.P. Agrawal

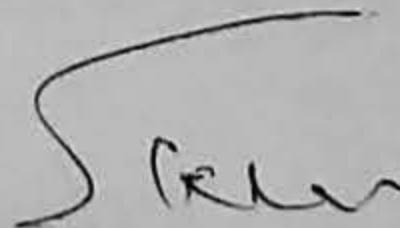
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By Hon'ble Mr.S.K.I. Naqvi, Member (J)

The applicants have come up impugning the order dated 01.11.1993, passed by General Manager, Northern Railway, whereby the seniority of the applicants has been affected and recovery from their salary has been ordered, which was paid to them under order of promotion made in their favour w.e.f. 01.1.84 but subsequently the orders were issued treating some of the applicants to have been promoted in the year 1989 and the others in the year 1992.

2. As per applicants case, they were permanent employees of the railway administration in the supervision of D.R.M., N.Rly., Allahabad and under restructuring scheme, circulated vide letter dated 09.5.1984, they were promoted w.e.f. 01.1.1984. Vide letter dated 16.8.1984 after restructuring the cadre pinpointed the additional upgraded post for and against individual divisions duly vetted by Financial Advisor and Chief Accounts Officer and the promotion orders were issued accordingly and the benefit of promotion was given w.e.f. 01.1.1984 but subsequently the impugned orders were passed through which the seniority of the applicants ^{is} are being affected followed by

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recovery from the salary of the applicant, which were paid to them under the orders of promotion made in their favour w.e.f. 01.1.1984 but subsequently, the orders were issued, treating some of the applicants to have been promoted in the year 1989 and the others in the year 1992.

3. The respondents have contested the case with the mention that these applicants were given benefit of promotion as SEFO erroneously from 01.1.1984 by the Division as the posts were Headquarter controlled posts and the promotion order issued by the Division is superseded by the Headquarter. The respondents have also come up with the case that the applicants are not entitled for the benefit of restructuring from 01.1.84 on the basis of modified selection. They have been regularised and given benefit of promotion as SEFO Grade Rs.2000-3200/- from actual date of promotion i.e. 20.2.1989 (applicants no.1 to 7) and 01.12.92 (applicants no.8 to 12) by Headquarters Office assigning them seniority as SEFO accordingly from the date of promotion. Recoveries for overpayment made to these staff from 01.1.1984, wrongly in the shape of arrears, were started as per Headquarter Office order, for which stay has been granted by the Allahabad Bench of the Central Administrative Tribunal. The respondents have clarified the position with the submission that on account of mistake or misconception on the part of the Allahabad Division, the applicants were given benefit

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of promotion as SEFO Rs. 700-900 from 01.1.1984 though the posts were Headquarter controlled posts. The details of the promotion to the applicants have been narrated in para-6 of the counter-reply. According to which, the competent authority sympathetically considered the case of the applicants and allowed the benefit of promotion from the date of their actual promotion and not from the date of re-structuring. It has further been clarified with the mention "However, Headquarters office on consideration has taken a lenient view that staff should not suffer for the irregularities committed by the Division. The competent authority on the basis of Railway Board's decision in a similar case of 4 employees of Lko. Division decided that above staff at item no. 1 to 7 and 8 to 12 should be regularised and assigned seniority from the date of their actual promotion." The respondents have closed the pleadings with the mention that Headquarter Office has taken a serious view of lapses and erroneous action taken on the part of this Division and orders have been passed to take action for fixing responsibilities ^{for} and erroneous action of the Division.

4. Heard, the learned counsel for the rival contesting parties and perused the record.

5. In the present matter, the applicants

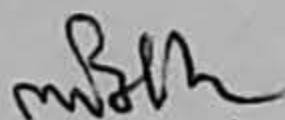
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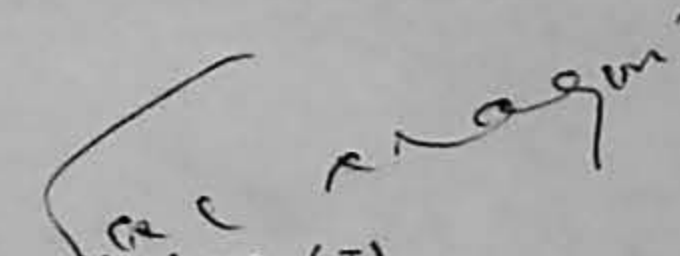
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were allowed promotion under restructuring scheme w.e.f. 01.1.1984 and were also allowed the arrears of pay and subsequently this order was withdrawn on the ground of having been erroneously issued and they were regularised and assigned seniority from the date of their actual promotion i.e. 10.2.1989 for the some applicants and 01.12.1992 for the other applicants. As per respondents case, this promotion has been allowed on sympathetic consideration and taking lenient view that staff should not suffer for the irregularities committed by the Division. We do not get a reply from the pleadings, as submitted from the respondents side, that how promotions could be given on "sympathetic consideration" by taking "lenient view". It is quite evident that the promotion to the post of S.E.F.O. is through selection by way of departmental examination or under the re-structuring scheme. If the promotion of the applicants was under the restructuring scheme, then it should have been given effect to from 01.1.1984 or otherwise the promotion could be through a regular selection, which admittedly has not been done in the present matter and the applicants were not subjected to departmental examination. We also ^{find} ~~observed~~ that the applicants hurriedly approach^{ed} the Tribunal without waiting for order on the representations preferred by them, which were moved on 07.12.1993 and 30.12.1993.

6. For the above, we find it expedient to direct the respondents to decide the pending representations of the applicants.

7. The respondents are directed to decide the pending representations of the applicants dated 07.12.1993 and 30.12.1993 within 4 months from the date of communication of this order by passing detailed, reasoned and speaking order. The applicants to furnish the copy of this order alongwith the copies of referred representations, to the respondents within one month from the date of this order. The O.A. is disposed of accordingly. No order as to costs.


Member (A)


Member (J)

/M.M./