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(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

O.A.No.423/95

Allahabad, this the 18 th day of FEBRUARY 1999.

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

Sri Johan Tigga, S/o. Late Shri Aghnu Tigga,  
R/o. 31-B, R.R.I. Railway Quarter, Kashi Railway  
Station, Varanasi.

.....Applicant.

(By Shri K.N.Katiyar, Advocate)

Versus

1. Union of India through the General Manager,  
Northern Railway, Baroda House, New Delhi.
2. The General Manager (P), Northern Railway,  
Baroda House, New Delhi.
3. Chief Signal & Telecommunication Engineer,  
Northern Railway, Baroda House, New Delhi.
4. Shree Ganpat Lal Meena (ST) T.C.I. Meerut  
under Sr. Divl.Signal & Telecommunication  
Engineer, Divisional Railway Managers Office,  
Northern Railway, New Delhi.


.....Respondents.

(By Shri A.K.Gaur, Advocate)

O R D E R

(By Hon'ble Mr. G.Ramakrishnan, Member[A] )

This is an application under Section 19 of Administrative Tribunal Act, 1985 filed by the applicant being aggrieved by the respondent's Notice No.754-E/93/Pram/TCI-I/E-2B-2, dated 24-2-94 promoting junior Shri G.K.Meena (ST)- respondent No.4 as Telecommunication Inspector-I Grade Rs.2000-3200 as a result of restructuring of the cadre of Telecommunication Inspectors. The applicant has prayed for the following reliefs :-

- (a) This Hon'ble Tribunal may be pleased to issue a writ of Mandamus directing the respondents No.1 to 3
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to fix the lien of the applicant against a permanent post in any of the Divisions of Northern Railway so that his service record may be maintained by that Division for determination of seniority.

(b) To promote the applicant as Telecommunication Inspector Grade-II Rs.1600-2600 and Grade-I Rs.2000-3200 with effect from the date his junior Shri G.L.Meena was promoted according to modified selection procedure as applied to the case of his junior Shri Ganpat Lal Meena respondent No.4 under the restructuring scheme notified by the Railway Board in its letter No. PC III/93/01/15/2, dated 27-1-93 implemented w.e.f. 1-3-93 (annexure A2).

(c) The Hon'ble Tribunal may pass such other and further orders granting relief as may be deemed fit and proper in the facts and circumstances of the case.

(d) That the applicant may be awarded cost.

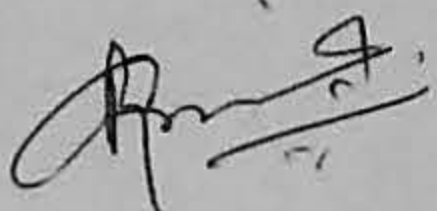
2. The facts which are not in dispute are that the applicant belongs to Scheduled Tribe. He was recruited as Apprentice Telecom Inspector Grade III grade Rs.1400-2300 and after completing apprentice training in Signal and Telecommunication School, Ghaziabad for the prescribed period of two years successfully, was appointed as Telecommunication Inspector Grade III under Dy.C.S.T.E./CR/IRCA Building, New Delhi initially at Lucknow and later on at Varanasi. The lien of the applicant was initially fixed in Lucknow Division under General Manager (P), Northern Railway's letter dated 18/20-10-93 and was subsequently changed to Delhi Division vide General Manager (P), Northern Railway's letter No. 220-E/1842-Part I (Rectt.) dated 13/19-4-94.

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3. The applicant in the O.A. stated that as a result of restructuring of cadre of Telecommunication Inspectors and consequent to general upgrading in terms of Railway Board's letter No. PC-III/91-CRC/I, dated 27-1-93 circulated under PS No.10723 vide GM(P), New Delhi Notice No. 754E/93/Prom./TCI.I/E-2 B-2, dated 24-2-94 one G.L.Meena (ST) T.C.I. Grade II Rs. 1600-2660 junior to the applicant was promoted with immediate effect to Grade-I scale Rs.2000-3200. Shri Meena was junior to the applicant as Shri Meena completed the two years training for the post of Apprentice TCI Grade-III in the scale of Rs.1400-2300 from S & T Training School, Ghaziabad on 31-10-90 and joined as TCI Grade-III thereafter, whereas the applicant completed the two years training on 25-5-90 and reported on 6-6-90 for duty and hence the applicant was senior to Shri G.L.Meena respondent No.4. The applicant made representation to the General Manager(P), New Delhi vide representations dated 8-3-94 and 4-5-94, but he did not receive any response. According to the applicant while his junior Shri G.L.Meena respondent No.4 was promoted on the basis of modified selection procedure in terms of Railway Board letter dated 27-1-93 he is continuing in Grade-III and further the respondents were going to hold another selection of TCI Grade-I Rs.2000-3200 and the applicant's name was not appearing in the list of eligible candidates. Hence he approached this Tribunal for the reliefs mentioned under Para-1 above.

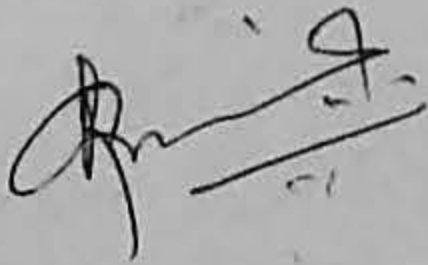
4. No separate C.A. was filed by the respondent No.4 nor anyone appeared on behalf of the respondent No.4. In the C.A. filed on behalf of other respondents it was stated that the promotion of the applicant in comparison to his junior Shri G.L.Meena respondent No.4 under "next below" was under consideration at Delhi Division. It was stated that as the lien of the respondent was fixed in Delhi Division only on 13/19-4-94 he could not be promoted in his turn in Delhi Division. Further the name of the applicant had been included in the seniority list of Telecommunication Inspector Grade-II at



serial No.17 in the letter dated 24-5-95 enclosed at annexure-IV to the C.A. It was stated that the applicant had been promoted to the Grade of Rs.1600-2660 vide Divisional Personnel Officer, Delhi's Notice No.754-E/53/VI/P-3, dated 24-10-95 (annexure-R3) and that even though he was called for selection for the post of TCI Grade-I and was directed to be sent for prepromotion training for the written test to be held on 24-6-95, the applicant did not attend the training on the plea that his junior Shri G.L.Meena had already been promoted on TCI Grade-I Rs.2000-3200 against restructuring scheme w.e.f. 24-2-94. They stated that Shri G.L.Meena was promoted as TCI Grade-I vide their order dated 24-2-94. Further it was stated that Shri G.L.Meena was promoted as TCI Grade-II on 20-1-93 when the name of the applicant was not appearing in the seniority list of TCIs of Delhi Division. It was stated that Divisional Railway Manager, Northern Railway, Delhi had been asked to examine the promotion of the applicant for the post of TCI Grade-II in comparison to his junior Shri G.L.Meena vide General Manager(P)'s letter enclosed as R10,11 and 12 of the C.A. Respondents have asserted that the lien of the applicant had been fixed in Delhi Division for all purposes as per extant rules and contended that the application was frivolous, vexatious and liable to be dismissed.

5. In the rejoinder Affidavit applicant admitted that the applicant's lien had been fixed in Delhi Division and one of the grievances had been redressed. The applicant stated that his promotion as TCI Grade-II was not correct and was only shown on paper, in support of which he enclosed annexure RA-1 and RA-2 which were copies of his representations dated 10-7-95 and 25-8-95. Further it was stated that as the applicant's junior Shri G.L.Meena - respondent No.4 was promoted to the Grade 2000-3200 on 24-2-94 under the restructuring scheme he was also entitled for the same. As regards

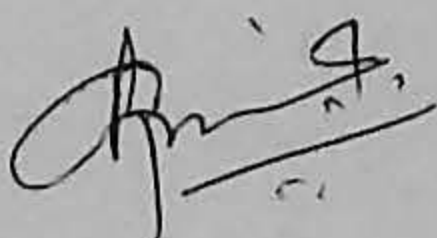
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his not undergoing the training for prepromotion training, applicant stated that as his junior Shri G.L.Meena was promoted to the grade Rs.2000-3200 on 24-2-94 according to the restructuring selection procedure, based only on scrutiny of service records and confidential reports without holding any written and viva-voce test and since he had claimed seniority over Shri G.L.Meena, he was entitled for the same benefit and deserved to be exempted from written test. Further it was stated that even though the lien of the applicant had been fixed in Delhi Division, his seniority in TCI Grade-II and Grade-I had not been determined visa-vis his junior Shri G.L.Meena because of which the applicant was suffering.

6. We have heard the two learned counsels for the parties as well as have given careful consideration to the pleadings made and have also gone through the records annexed to the O.A., C.A. and R.A. As the lien of the applicant has been fixed in Delhi Division of Northern Railway the first relief claimed by the applicant has already been acceded to by the respondents.

7. From a perusal of the seniority list of TCI Grade-II annexed as Annexure IX to the C.A. it is noted that Shri G.L.Meena respondent No.4 was appointed as TCI Grade III on 15-11-90 and has been promoted to TCI Grade II on 20-1-93 whereas the applicant had been appointed as TCI Grade III on 26-5-90. Therefore the applicant is senior to Shri G.L.Meena. From annexure R3 to the C.A. it is noted that the Divisional Personnel Officer, Northern Railway, New Delhi have issued a Notice promoting the applicant as TCI Grade II in grade Rs.1600-2660 against restructuring w.e.f. 1-3-93. As Shri G.L.Meena junior to the applicant had been promoted w.e.f. 20-1-93 as TCI Grade II the applicant is entitled for the benefit of promotion to this Grade from that date. From annexure-VIII to the C.A. it is seen that Shri G.L.Meena had been promoted as TCI Grade-I in grade Rs.2000-3200 with immediate effect  
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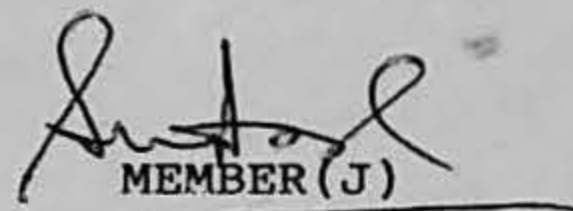


vide General Manager (P)'s Notice No. 754-E/93/Prom/TCI-I/E-2B-2, dated 24-2-94. As the applicant is senior to Shri G..L.Meena (ST) he is entitled for promotion as TCI Grade-I in grade Rs.2000-3200 from the same date on which Shri Meena was promoted to this grade. In case Shri G.L.Meena (respondent No.4) was promoted as TCI Grade-I based on the modified selection procedure as per Railway Board's letter No. PC-III/91/CRC/1, dated 27-1-93, the applicant is also entitled for consideration on the same basis.

8. Thus the O.A. succeeds and is allowed. Respondents 1 to 3 are directed to implement the above directions and make payment of arrears of salary and allowances arising thereof to the applicant within a period of three months from the date of receipt of the copy of this judgement.

9. In the facts and circumstances of the case the applicant is awarded costs of Rs.650/= (Rs.500/= towards fee for the counsel and Rs.150/= towards other expenses). Respondents No.1 to 3 shall make this payment to the applicant within one month of the receipt of the copy of this judgement.

  
MEMBER(A)

  
MEMBER(J)

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