

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 1ST DAY OF JULY, 2002

Original Application No. 759 of 1995

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Onkar Singh, Son of Late
Anirudh Singh, R/o 103/1, Site No.1,
Kidwai nagar, Kanpur.

... Applicant

(By Adv: Shri K.K.Mishra)

Versus

1. Union of India, through General
Manager, Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway manager,
Northern Railway, Allahabad.
3. Senior Divisional personnel officer
Northern Railway, Allahabad.
4. Senior Divisional Commercial
Superintendent, Northern
Railway, Allahabad.
5. N.P.Sarkar, Divisional Commercial
Superintendent, Northern Railway,
Allahabad.

... Respondents

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has prayed for a direction to the respondents to pay him the arrears of pay on account of fixation of pay as due and also notional fixation of pay for the post of JIT(Junior Inspector of Tickets) in the grade of Rs 1600-2660. Applicant has also prayed that he should be promoted as Chief Inspector of Tickets w.e.f. 1.3.1993 and has claimed difference in pay.

The facts of the case, giving rise to the aforesaid application are that applicant was serving in Northern

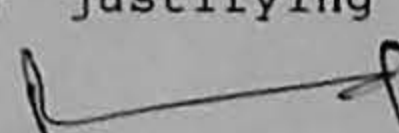
Railway as TTE. He was served with a memo of charge dated 3.4.1990 and 26.11.1991. He was awarded punishment of with-holding increments for a period of 3 years w.e.f. 1.1.1991. While this order was in effect he was served another memo of charge dated 24.6.1992 on the basis of which he was again awarded a punishment of with-holding the increment for a period of six months by order dated 29.4.1993. On the basis of another memo of charge dated 23.7.1992 applicant was awarded punishment on 29.4.1993 withholding increments for a period of six months. All these punishments ^{which were} ~~were~~ ^{are} taken into ^{for giving effect} account one after another. The last punishment was awarded to the applicant on the basis of the memo of charge dated 30.9.1993 the punishment awarded was for six months by order dated 6.12.1993. Against the earlier orders appeals were filed by the applicant but they were dismissed and orders have become final. The appeal filed against the order dated 6.12.1993 however was allowed by order dated 10.1.1995 and the period of six months was reduced to the period of two months. Thus the total effective period of currency of punishment on the basis of the aforesaid order was 4 years, two months ^{which} expired on 1.3.1995. After this period expired the applicant was granted promotion as JIT by order dated 10.4.1995. He joined on 13.4.1995.

Aggrieved by the action of the respondents not giving him promotion from the date it ~~was~~ ^{is} due to him and non fixation of the pay and also denying the promotion as CIT he has approached this Tribunal. Learned counsel for the applicant has placed reliance in the judgment of Principal Bench of this Tribunal in case of 'Prem Singh Verma Vs. Union of India, (1993) 24 ATC PG_222 and a judgment of Chandigarh Bench of this Tribunal in case of 'Praveen Kumar Agrawal Vs. Indian

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Council of Agriculture Research Institute and Others, (1988) 8 ATC-496 and has submitted that if the applicant is denied promotion from the date it was due to him, ~~it~~ but could not be given on account of currency of the punishment, then it shall amount double jeopardy. As denial of promotion by itself is minor punishment provided in rules. It is also submitted that as the applicant became entitled for promotion as JIT w.e.f. 21.2.1992 when person junior to him Sri R.S.Dwivedi was promoted he should have been granted promotion from JIT. It is also submitted that the person junior to him R.S.Dwivedi was promoted as CIT from 27.1.1993, thus the applicant should have been considered for that promotion which was ^{of} a consequence of restructuring.

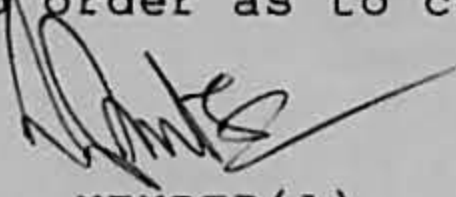
We have carefully considered the submissions of counsel for the applicant and also perused the counter affidavit filed by the respondents. However, in counter affidavit we do not find any justifiable reason for denying the applicant promotion from the date his juniors were granted. In the case of 'Prem Singh Verma(Supra) and Praveen kumar Agrawal(Supra) this Tribunal has already taken the view that if the promotion is not granted from the date it was actually due, it will amount to double jeopardy. The respondents have not considered this important aspect of the matter. The applicant before coming to this Tribunal filed representations before the respondents. The last such representation was made on 5.10.1994 which was addressed to General Manager and the copy of which has been annexed as (Annexure A-26). However, no action has been taken on the representations filed by the applicant. Considering the facts and circumstances of the case and also there being a total absence of any explanation in the counter reply, ~~for~~ justifying the denial of the




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aforesaid claims of the applicant, in our opinion it is a fit case where respondents may be directed to decide the representation of the applicant by a reasoned order within the specified time.

For the reasons stated above, this OA is disposed of finally with the direction to the respondents no.2 D.R.M., Northern Railway, Allahabad to consider and decide the representation of the applicant with regard to claim of J.I.T and CIT in accordance with rules and the judgments relied on. The representation of the applicant shall be decided within a period of four months from the date a copy of the order is filed before the respondent no.2. In order to avoid delay, it shall be open to the applicant to file a fresh copy of the representation alongwith copy of this order. There will be however, no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 1st July, 2002

Uv/