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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 16th DAY OF JANUARY 1997

Original Application No. 847 of 1995

HON.MR.S.DAS GUPTA, MEMBER(A)

HON.MR.T.L.VERMA, MEMBER(J)

Anand Kumar Khare, office Supdt.
Grade II, Transportation Branch
Office of Divisional Railway Manager,
Northern Railway, Allahabad.

Applicant

Versus

1. The Union of India through the General Manager, Northern Railway New Delhi.
2. The Director Establishment, Ministry of Railway, Railway Board, New Delhi
3. The General Manager(P)/Chief Personnel Officer, Baroda House, Northern Railway New Delhi.
4. The Divisional Railway Manager, Northern Railway, Allahabad.
5. The Senior Divisional Personnel Officer, Northern Railway, Allahabad.

Respondents

O R D E R (Oral)

HON.MR.S.DAS GUPTA, MEMBER(A)

This O.A. was filed u/s 19 of the Administrative Tribunals Act 1985 seeking a direction to the respondents to give to the applicant the same benefits as was given to Shri M.A. Siddiqui with regard to his promotion as Senior Clerk and to allow all consequential benefit.

2. The applicant was promoted against 10% quota of vacancies on the post of Senior Clerk and was posted ^{his} out of ~~these~~ seniority unit in 1973. He did not accept the posting and went on representing for his promotion

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within his own seniority unit. This was however not accepted and the applicant therefore did not get the benefit of promotion. Subsequently, the Railway Authorities accepted the representation of one Shri M.A. Siddiqui who was also working alongwith the applicant and was also similarly promoted and posted out of the seniority unit and he was given retrospective promotion from 1973 with all consequential benefits. This happened in 1980. The applicant submitted a representation for being given the same benefit, as were extended to M.A. Siddiqui and it appears that the matter was under correspondence between the Divisional office and the Railway ^{Ho.} ~~Board~~. A copy of the D.O. letter dated 14.12.88 addressed by the Senior D.P.O. Allahabad to the Northern Railway Head Quarters ^{as} Annexure A to the O.A. From this it would appear that the Divisional office had taken a view that the applicant's case is on all fours with that of M.A. Siddiqui and therefore he should have been given similar benefits.

3. The respondents in their counter affidavit have taken a plea that the application is not maintainable as the cause of action arose in 1979/80 and in any case the application is not maintainable before this Tribunal as it arose much earlier than three years prior to the administrative Tribunals Act 1985 came into force. On merit of the case it has been stated that M.A. Siddiqui was at sl. No.1 of the panel and therefore senior to the applicant and as there was a vacancy available he could be accommodated on promotion

in his seniority group itself in the year 1980.

4. We have heard the learned counsels for both the parties and have perused the pleadings on record. The Divisional office appears to have accepted the fact that the applicant's case is at par with Sri M.A. Siddiqui as would be evident from the letter dated 14.12.1988. It is not clear as to what action was taken on this letter and what is the final outcome of the applicant's representation.

5. We are not inclined to dismiss this application on the ground that it is barred by limitation as a *prima facie* case has been made out that there was a discrimination between the applicant and one Shri M.A. Siddiqui. We, therefore, dispose of this application with the direction to the respondents to consider the case of the applicant in the light of their own recommendation contained in the D.O. letter dated 14.12.1988 and communicate the decision taken thereon to the applicant within a period of three months from the date of communication of this order. parties shall bear their own costs.

S. H. Wamy
MEMBER(J)

W.R.
MEMBER(A)

Dated: 16th january, 1997

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