

OPEN COURT

**Central Administrative Tribunal Allahabad Bench**

**Allahabad.**

**Allahabad This The 15<sup>th</sup> Day Of September 2008.**

ORIGINAL APPLICATION NO. 1674 OF 1999.

**Present:**

**Hon'ble Mr. Justice A.K. Yog, Member (J)**

**Hon'ble Mr. K.S. Menon, Member (A)**

Jewan Ram S/o Shanu, OS Gr.1 Chief Commercial  
Manager's Office, Station Building N. Rly. Varanasi  
Cantt.

.....Applicant

By Advocates: Shri S.K. Dey/Shri S.K. Mishra

Versus.

1. Union of India through the General Manager, N.  
Railway, Baroda House, New Delhi.
2. The Dy. Chief Commercial Manager (Claim) N.  
Railway, Station Building Varanasi, Cantt.

.....Respondents.

By Advocate: Shri Lalji Sinha

**ORDER**

Delivered by Justice A.K. Yog, Member (J)

Heard Shri S.K. Dey, Advocate assisted by Shri S.K.  
Mishra, Advocate appearing for the applicant and Shri  
Lalji Sinha, Advocate counsel for the respondents.

2. We may recapitulate admitted facts, necessary to  
decide the O.A finally. The applicant (in the year 1998)  
held post of Office Superintendent Grade 1 (O.S. Gr. I)  
in the office of Chief Commercial Manager, Northern  
Railway, Varanasi Cantt. As per policy and relevant  
circulars on the subject issued by Railway Board, certain  
posts designated as Chief Office Superintendent (C.O.S)-  
carrying higher emoluments- were to be filled in.

3. Applicant was called for selection as per the then  
existing Railway Board Instruction/order. There is no

*[Signature]*

dispute that applicant (under Scheduled Caste category), who was at Sl. NO. 1 in the seniority amongst the concerned Office Superintendent was called for selection by means of order dated 16.9.1998/Annexure A-2 to the O.A. Applicant appeared in the selection without protest by means of order dated 7.1.1999/Annexure A-8 to the O.A. List of candidates selected for 'Viva Voce' was declared. Name of applicant did not find place in this list.

4. Applicant being aggrieved, filed present O.A. contending inter-alia amongst others, promotion to be made on C.S.O upgraded posts through the scrutiny of Service Records and Confidential Reports with retrospective effect from 10.5.1998 that in view of Departmental letter dated 29.7.1998/Annexure A-1 to the O.A., (referring to letter/order of Railway Board)- no selection was to be held it was provided that no "there was one time relaxation for introducing the above scale and designation.

5. Learned counsel for the applicant submits that no 'written test' could be held in view of the above and the applicant has been illegally denied benefit of promotion on the post of Chief Office Superintendent. Applicant, in support of his contention, placed reliance over letter of Government of India, Ministry of Railways addressed to General Manager dated 17.2.1999, which reads:

*"Sub: Procedure for filling up the posts of Chief Office Supdt. And Depot Stores Supdt. In scale Rs. 7450-11500.*

*In terms of this Ministry's letter No.PC-V/50/1/10 (A) dated 10.5.90, (RBC No.100/98), the posts of Chief Office Supdt. And Depot Stores Supdt. In the newly introduced scale of pay of Rs.7450-11500 have been classified on "Selection".*

*2. The Staff Side have raised a demand in the Departmental Council under the JCM that the posts of classified as "Non-Selection". The Board have examined the demand, it has been decided that while it is not possible to change the classification of the posts, as a measure of immediate relief to the staff and to avoid delay in the implementation of the Board's instructions, the posts of Chief Office Supdt. And Depot Stores Supdt. Which have arisen as a result of introductions of grade Rs.7450-11500 w.e.f. 10.5.98 in the respective categories, may be filled through the process of modified selection by scrutiny of service records only as a one time exception.*

*Please acknowledge receipt.*

*Hindi version will follow.*



Sd/ illegible  
(J.S. Gusain)

*Joint Director Estt. (N)  
Railway Board"*

3. Learned counsel for the applicant has filed present Original Application with following reliefs:

- "(i) That this Hon'ble Court may be pleased to direct the respondents to upgrade to the post of C.O.S on the basis of scrutiny of service record and confidential report in view of Railway Board's letter dated 10.5.1998.*
- (ii) That the Hon'ble Court may be pleased to quash the letter dated 16.9.98 and 7.1.99.*
- (iii) Any other relief or reliefs to which he is entitled may also be awarded".*

4. Learned counsel for the applicant informs that applicant has already been promoted to the post of Chief Office Superintendent in the year 2004.

5. In view of the above, relief to the extent of seeking direction to the upgraded post of Chief Office Superintendent in view of Railway Board letter dated 10.5.1998 losses relevancy and becomes redundant. Similar other relief requiring this Tribunal to quash order dated 16.9.1998/Annexure A-2 to the O.A. and order dated 07.1.1999/Annexure A-8 to the O.A also losses relevancy and relief has been rendered redundant.

6. Learned counsel for the Applicant contended that the Applicant appeared in examination and subjected to test before his promotion as C.S.O and it is not disputed that the Applicant did not cannot be allowed to plead otherwise and aprobate and zeprobate. Secondly, learned counsel for the applicant has failed to satisfy that applicant is entitled for any relief on the basis of Railway Board letter dated 17.2.1999/Annexure 3 to the supplementary counter affidavit (relevant extract quoted above). Said Railway Board letter/order cannot be said to be retrospective. Whatever was done before 17.2.1999 became 'a fact' accomplish.

7. Learned counsel for the applicant, in the last, argued that O.A. claimed in the relief has not been rendered infructuous/stale, inasmuch, as according to him, if relief claimed are allowed the applicant shall be

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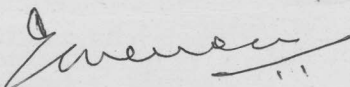


entitled to consequential pecuniary benefit/s for delayed promotion.

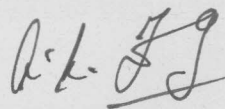
8. Learned counsel places reliance to order dated 29.9.1998/ Annexure A-1 to the O.A. Said letter is with reference to 'Eastern Railway' and not to the 'Northern Railway' to which Applicant belongs. In absence of any pleadings, applicant is not entitled to take benefit to the said order/Annexure A-1 to the O.A. We are further fortified, in our conclusion, in view of contents of Railway Board order dated 15.5.1999 filed as Annexure 5 to the Supplementary counter affidavit, which categorically decides that selection process which had already taken place, will not be ignored or treated revoked.

9. In view of above, the O.A. has no merits and is accordingly dismissed.

10. No order as to costs.



(K.S. Menon)  
Member (A)



(Justice A.K. Yog)  
Member (J)

Manish/-