

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 23rd DAY OF MAY, 2002

Original Application No. 270 of 1999

CORAM:

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

HON. MR. C. S. CHADHA, MEMBER (A)

Vijay Kumar Saxena, Son of
Shri Swami, resident of Sudampuri
Bhains Bahore, district Mathura

... Applicant

(By Adv: Shri Sanjay Goswamy)

Versus

1. Union of India through its
General manager, Central Railway,
Mumbai C.S.T.
2. Divisional Railway Manager,
Central Railway, Jhansi.
3. Senior Divisional Personnel
Officer, Central Railway, Jhansi.
4. Shri yatendra Kumar Agrawal
posted in the office of S.S. Raja ki Mandi
Central railway, Agra.

... Respondents

(By Adv: Shri ~~Ganga Ram Gupta~~ *A. K. Gaur*)

O R D E R (Oral)

HON. MR. C. S. CHADHA, MEMBER (A)

This OA has been filed challenging the validity of (Annexure A-1) by which he was granted promotion to the grade of Head clerk w.e.f. 14.8.1998. The plea of the applicant is that by an order of the Railway Board dated 17.8.1998 it was directed that the senior most 10% of the posts of Senior clerks, which also carry the special pay of Rs 70/- per month, shall be merged and upgraded to the post of Head Clerk Rs 5000-8000 as recommended by the Pay Commission. . The claim of the applicant is that he was

within the senior most 10% and was actually drawing the special pay of Rs 70/- per month w.e.f 10.5.1995 but he was denied this upgradation by virtue of a subsequent ^{le} refusal by him ^{le} to accept promotion and posting from Mathura. This ^{le} refusal from him came after he was offered promotion vide order dated 13.8.1997. The submission of the applicant is that the directions of the Railway Board were to be given effect for the position as it ^{le} existed on 1.1.1996. Any subsequent development cannot affect the applicant's eligibility for upgradation unless specifically provided in the said Railway Board's order. We have perused the said order of the Railway Board and it does not mention that those who have refused promotion after 1.1.1996 but before the issuance of the said circular, on 17.8.1998, should also be denied the benefit of such upgradation.

The respondents have not averred that the applicant was not within the first 10% of the Senior Clerks drawing a special pay of Rs 70/- per month in addition to his salary. They have merely averred that since he ^{le} refused promotion and subsequently was promoted w.e.f. 14.8.1998 his date of getting the promotion shall remain as 14.8.1998.

We cannot agree with the argument of the learned counsel for the respondents because the Railway Board circular does not specifically bar the upgradation of the applicant, because of a refusal of promotion which was subsequent to 1.1.1996. According to the Railway Board circular the position as on 1.1.1996 had to be decided upon. ^{le} On that date, i.e. 1.1.1996, the applicant was within the senior ^{le} most 10% of the Senior Clerks drawing the

S. B. Chakraborty

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scale of Rs 4500-7000 with the special pay of Rs 70/- and therefore was definitely entitled to the upgradation of the post of Head Clerk in the scale of Rs 5000-8000 in ⁱⁿ accordance with the said circular. *6*

Due to the reason mentioned above this OA is allowed. The impugned order is quashed. the respondents are directed to give benefit of the upgradation to the scale of Rs 5000-8000 to the applicant w.e.f. 1.1.1996. He shall be entitled to all consequential benefits which shall be given to him within three months from the date a copy of this order is filed. No order as to costs.

[Signature]
MEMBER (A)

[Signature]
VICE CHAIRMAN

Dated: 23rd May, 2002

Uv/