

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

original Application No. 744 of 1999

Allahabad this the 09th day of August, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)  
Hon'ble Mr.M.P. Singh, Member (A)

Jagdish Prasad Mishra, S/o Late B.N. Mishra,  
aged about 42 years, R/o 548-B, Northern Rail-  
way, ~~Me~~- Jammasthami Colony, G.T. Road, Kanpur.

Applicant

By Advocate Shri O.P. Gupta

Versus

1. D.R.M. Northern Railway, Allahabad Division,  
ALLAHABAD.
2. Union of India, through General Manager,  
Baroda House, New Delhi.

By Advocate Shri A.V. Srivastava

ORDER ( Oral )

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri Jagdish Prasad Mishra has filed  
this O.A. with the grievance that juniors to him  
have been promoted by order dated 29.7.1998 in  
pay scale of Rs.5000-8000/- ignoring the claim  
of the applicant.

2. As per applicant's case S/Shri Ram Kumar  
Gautam, Naushad Ali, Kanchan Lal and P.K. Gaur were  
junior to him in the seniority list for the cadre of

*See*

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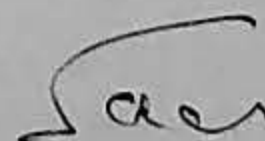
Senior Clerk but they have been promoted vide order dated 29.7.1998 to the post of Head Commercial Clerk in the higher pay scale.

It has been averred that the promotion is by seniority cum suitability and not through process of selection.

3. The respondents have contested the case and filed the counter-reply in which the seniority position in Senior Clerk cadre has not been disputed, but it has been mentioned that the applicant was not promoted because of departmental punishments, one being withholding of increment for one year w.e.f. 01.2.1997 and the other being withholding of increment for 3 years w.e.f. 01.2.1998.

4. It has been brought on record through the rejoinder that the applicant has subsequently been promoted from the post of Senior Clerk to the post of Head Commercial Clerk w.e.f. 08.3.2000. but in promoted cadre, he has been kept below to those who were junior to him in the Senior Clerk cadre and now it remains the only grievance of the applicant that due seniority be allowed to him.

5. Heard, the learned counsel for the parties and perused the record.



.....pg3/-



6. With the position as it emerged through pleadings, the only controversy remains the seniority position of the applicant in the cadre of Head Commercial Clerk, whether it should be from the date when he was promoted to this post or from the date when promotion was denied to him because of departmental punishment..

7. The contention of the applicant is that before this promotional order, the clouds of departmental punishment were withered and, therefore, its effect should be that it never ---- existed and thereby the applicant is entitled for promotion w.e.f. the date when next junior to him was promoted. We find force in the contention.

8. In view of the facts and circumstances discussed ~~discussed~~ above, the O.A. is allowed with the direction that the applicant be placed just above the next junior to him in the seniority list of Senior Clerk, who have also been promoted to Head Commercial Clerk and have <sup>been</sup> placed above him <sup>x</sup> but he shall not be entitled to any backwages consequent upon re-fixation of seniority. No order as to costs.

*x. and accordingly placed  
in the seniority list of  
Head Commercial Clerk.*

*Set aside  
08.9.2000.*

*[Signature]*  
Member (A)

*[Signature]*  
Member (J)