

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD.

Dated: Allahabad, the 2nd day of August, 2001

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

ORIGINAL APPLICATION No. 93 OF 1999

A.N. Yadav,

son of late Sri M. L. Yadav,  
r/o M. L. Yadav, Gorakhpur,

Durga Milan Chowk, Gorakhpur,

presently working as Senior

Commercial Manager (Claim Prevention),

North Eastern Railway, Gorakhpur.

. . . . . Applicant

By Advocate: Sri S.K. Om

Versus

1. Union of India, through General Manager,  
North Eastern Railway, Gorakhpur.

2. Chief Personnel Officer,  
N.E. Railway, Gorakhpur.

3. Sri Sonne Lal,  
son of not known,  
working as Assistant Commercial Manager,  
North Eastern Railway,  
Lucknow.

4. Sri J.P. Singh,  
son of not known, working as  
Assistant Commercial Manager (Ticket Checking),  
N.E. Railway, Gorakhpur.

. . . . . Respondents

By Advocate: Sri A.K. Gaur

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(Oral)

(By Hon'ble Mr. S. Dayal, AM)

This application has been filed for setting aside the order dated 28st January, 1999 and for direction to the respondents not to revert the applicant from the post of Senior Commercial Manager (Claim Prevention), North Eastern Railway, Gorakhpur (in senior scale) to the post of Assistant Commercial Manager, N.E. Railway, Gorakhpur (Group 'B' vice).

2. The applicant has claimed that he was selected in the panel declared on 5th January, 1989 in Group 'B' category. The panel was subsequently modified on 23rd October, 1989 and the applicant's name was at Sl.No.10. The panel was further modified on 11th October, 1993 and the name of Sri J.P. Singh, Respondent No.4, who was earlier at Sl.No.11, was placed at Sl.No.4. The applicant moved a representation, claiming that Sri J.P. Singh was junior to the applicant, as the applicant was appointed as Senior Commercial Inspector on 22nd December, 1979, while Sri J.P. Singh was appointed on 31st March, 1980. It is also claimed that in the list of eligible candidates, Respondent no.4 was shown as junior to the applicant. The applicant had ~~preferred~~ <sup>preferred</sup> an appeal against order dated 30.3.95. The applicant claimed that based on his performance, the Departmental Promotion Committee had recommended his name and he was promoted to senior scale on ad hoc basis on 30.5.97 and has been holding the post ever since his promotion.

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3. We have heard the arguments of Sri S.K. Pandey, brief holder of Sri S.K. Om for the applicant and Sri A.K. Gaur for the Respondents.

4. The learned counsel for the respondents has stated that as per Board's letter No.E(GP 85/1/7 dated 11.9.86, list of eligible candidates was published on the basis of seniority of candidates in the scale of Rs.2375- 3500/- and in this scale, Sri J.P. Singh was senior to the applicant and on the basis of <sup>that</sup> seniority, written examination was held on 11.9.88 and 18.9.88. Subsequently, however, Board by their letter dated 22.12.88 decided that selection against 75% of vacancies in Group 'B' would be done on the basis of seniority in the grade of Rs.2000- 3200/-, in which Sri J.P. Singh was junior to the applicant. The Respondents considering <sup>that</sup> the letter of the Board dated 22.12.88, ~~which~~ was received after the Notification was issued for selection to the grade of Rs.2375-3500/- on 27.7.98, finalised the selection on the basis of instructions contained in the notification. Therefore, the panel of A.C.Ms dated 11.10.93 had been revised and seniority of Sri J.P. Singh was fixed above six persons, who are senior to Sri A.N. Yadav. In the DPC held on 16.4.97 to consider the suitability of Group 'B' officers of TTCD for ad hoc promotion to senior scale, Sri J.P. Singh was considered but was facing major penalty and, therefore, recommendations regarding Sri J.P. Singh were kept in a sealed cover.

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After his exoneration, Sri J.P. Singh was required to be promoted, as per Board's letter dated 21.1.93. Sri Sonne Lal, Respondent No.3, who ~~was~~ belonged to Scheduled Tribe community was also considered by the Departmental Promotion Committee held on 14.12.94, but his case certificate was disputed, and, on the dispute having been resolved, he was required to be promoted since the post was not available for promotion of Sri J.P. Singh as well as Sri Sonne Lal, who belongs to Scheduled Tribe, the applicant had to be reverted. Since the applicant was adjudged junior to Sri Sonne Lal, Respondent No.3 and Sri J.P. Singh, Respondent No.4, the order reverting him cannot be faulted and the application is found lacking in merits and hence dismissed. There shall be no order as to costs.

*Rafiq Uddin*  
(RAFIQ UDDIN)  
MEMBER (J)

*S. Dayal*  
(S. DAYAL)  
MEMBER (A)

Nath/