

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 1334 of 1999.

On this the day of 16th, May 2002.

HON. MAJ. GEN. K.K. SRIVASTAVA, A.M.

HON. MR. A.K. BHATNAGAR, J.M.

M.S. Meena (ST),
S/o Sri Prahlad Singh,
Aged about 40 years,
R/o L-81B2LINE Par
Chirya Tola, Moradabad,
(U.P.).

... Applicants

By Advocate:-Sri R.C. Pathak.

Versus.

Union of India through,
General Manager,
Northern Railway,
Baroda House, New
Delhi.

2. Divisional Railway,
Manager, Northern Railway,
Moradabad.

3. Senior Divisional Personnel,
Officer, Northern Railway,
Moradabad.

4. Divisional Railway,
Manager, Northern Railway,
Bikaner.

5. Shri S.V. Mandal

6. Shri S.R. Gupta
7. Shri V.K. Gupta
8. Shri Pratap Shanker
9. Shri S.V. Singh
10. Shri ^{SC} C.S. Sinha

Corrected vide
order date 12.9.2002

All Dy. Chief Controller, Divisional
Railway Manager Office, Northern Railway,
Moradabad.

.....Respondents

Counsel for the respondents :- Sri Prashant Mathur

O R D E R (Oral)

(By Hon'ble Maj. Gen. K.K. Srivastava, Member- A.)

In this O.A filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 10.09.1989 (Annexure A- 3) by which the seniority of the applicant as Dy. Chief Controller has been changed from 22.05.1992 to 09.07.1992. The applicant has prayed that direction be issued to the respondent No. 1 to correct the seniority of the applicant w.e.f 22.05.1992 instead of 05.02.1994 for the purpose of promotion in the pay scale of Rs. 2000-3200 on the post of Dy. Chief Controller with all consequential benefits including arrears. He has also prayed that the applicant be promoted on the post of Chief Controller in pay scale of Rs. 2375-3500 w.e.f 01.03.1993 as the same has been given to his junior Sri Om Prakash Meena (ST) with all consequential benefits. The applicant has further prayed that the order dated 18.05.1999 (Annexure A- 1) deciding the representation of the applicant for grant of promotion under cadre restructuring post w.e.f 01.03.1993 as Chief Controller be also quashed. The applicant has also claimed 18% interest on the arrears which may accrue to him.

2. The facts giving rise to this O.A are that the applicant belongs to S.T category and was appointed as Assistant Station Master (ASM) on 19.09.1993 through Railway Service Commission, Allahabad. He was posted at Firozpur Division where he served upto October, 1997.

*Corrected vide
order date 12.9.2002*

AN

The applicant was again directly recruited as Traffic Apprentice on 15.11.1987 through Railway Service Commission, Allahabad and was sent for two years Training from 15.11.1987 to 16.02.1990. After successful completion of his training the applicant was posted in Moradabad Division and worked as Section Controller w.e.f 22.09.1990. The applicant was further promoted as Dy. Chief Controller in Moradabad Division, Northern Railway w.e.f 05.02.1994. The promotion as Dy. Chief Controller was delayed because the applicant was again sent for training for one and a half years. Aggrieved by this, the applicant filed O.A No. 1573/1992 which was allowed by this Tribunal vide order dated 03.07.1999 (annexure A- 5). The respondents fixed the seniority of the applicant as Dy. Chief Controller w.e.f 22.05.1992 vide order dated 20.12.1997 (annexure A-9). However, the date of promotion in the grade of Dy. Chief Controller has been changed from 22.05.1992 to 09.07.1992 by impugned order dated 10.09.1998 (annexure A- 3). Aggrieved by this the applicant has filed this O.A which has been contested by the respondents by filing CA.

3. Sri R.C. Pathak, learned counsel for the applicant submitted that the action of the respondents in changing the date of promotion from 22.05.1992 to 09.07.1992 by order dated 10.09.1998 is arbitrary and illegal. Once the date of promotion is fixed in the cadre of Dy. Chief Controller as 22.05.1992, in compliance of the Tribunal's order the respondents have no right to change the date *of their own*. The learned counsel for the applicant also submitted that because of the change in date of promotion

of the applicant as Dy. Chief Controller, the juniors of the applicant have been promoted as Chief Controller.

4. The learned counsel for the applicant further submitted that against S.T vacancy which was converted into general, two more juniors of the applicant Sri O.P. Sharma and Sri K.K. Agrawal were promoted vide order dated 06.02.1995 (annexure A- 8). The learned counsel contended that in this way the applicant is subjected to grave injustice which needs to be redressed.

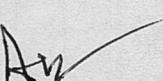
5. Sri P. Mathur, learned counsel for the respondents inviting our attention to para 3.X, paras 7, 8 and 19 of the CA submitted that the action of the respondents is as per rules and no injustice has been meted out to the applicant. The learned counsel submitted that in compliance of the orders of G.M.(P) dated 18.05.1989, 19.01.1993 and 12.12.1997 the date of promotion of the applicant on the post of Dy. Chief Controller had to be changed as the adhoc service of six Section Controllers senior to the applicant had to be regularised from 10.05.1989. Consequently, the applicant was placed at his appropriate seniority in the grade of Rs. 1400-2600. The learned counsel for the respondents further submitted that the applicant should have no grievance as the cases of 4 other employees, who were party in O.A No. 1573/1992, were also examined ^{in and in} the dates of promotion in respect of applicant's service Sri S.R Dewakar (SC) and Sri S.C. Soti were also changed.

6. We have considered the submissions of the learned counsel for the parties and perused records. Admittedly, the respondents have fixed the date of promotion of the applicant in the cadre of Dy. Chief Controller w.e.f 22.05.1992 while implementing the Tribunal's order dated 03.07.1997. Therefore, we are of the view that in case

the date of promotion of the applicant to the grade of Dy. Chief Controller had to be changed from 22.05.1992 to 09/07.1992, it was incumbent upon the respondents to have given the show cause and also the opportunity for hearing before taking decision. This has not been done. The applicant has filed representation dated 12.07.1999 before the General Manager, Northern Railway, New Delhi which has not been decided so far. In our opinion, justice demands that the representation of the applicant dated 12.07.1999 is decided by the G.M., Northern Rly, New Delhi by a reasoned and speaking order. We also feel that probably the full facts regarding applicant's case were not placed before the General Manager, Northern Railway while deciding the case of promotion of six adhoc Section Controllers to the post of Dy. Chief Controller resulting into change in the date of promotion of the applicant.

7. In the facts and circumstances and our aforesaid discussion, the OA is disposed of with direction to respondent No.1 i.e. General Manager, Northern Railway, Baroda House, New Delhi to decide the representation of the applicant dated 12.07.1999 (annexure A- 13) by a reasoned and speaking order within three months from the date of communication of this order .

8. There shall be no order as to costs.


Member- J.


Member- A.