

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

(This the 25th day of May 2009)

Present

Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble Mr. S. N. Shukla, Member (A)

Original Application No.1282 of 2000
(U/S 19, Administrative Tribunal Act, 1985)

Narendra Pratap Pandey, S/o Shiv Nath Pandey, R/o 220-B
Briz Enclab, Sunderpur, Varanasi.

. . .Applicant

By Advocate: Sri V.K. Srivastava

V E R S U S

1. Union of India, through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Varanasi.
3. Chief Medical Director, North Eastern Railway, Gorakhpur.
4. Chief Medical Superintendent, North Eastern Railway, Varanasi.

. . .Respondents

By Advocate: Shri P. Mathur

O R D E R

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

Heard learned counsel for the parties. Perused the pleadings and documents on record.

2. By means of this OA the applicant has claimed following reliefs:-

- "a. That by means of suitable order or direction in the nature of certiorari quashing the order dated 04.02.2000 passed by General Manager,

North Eastern Railway, Gorakhpur through which the respondent has reduced the pay scale of Rs. 4500-7000 to the post of pay scale Rs. 4000-6000 for the post of senior clerk while the post of senior clerk is not in existence in the department.

- b. That by means of suitable order or direction in the nature of mandamus commanding the respondents to absorbed/adjust to nay equivalent post and pay scale of senior clerk/Head Clerk as the number of juniors have been absorbed/adjusted in the department in pay scale of Rs. 4500-7000.
- c. That by means of suitable order or direction in the nature of mandamus commanding the respondents to regularise the applicant services to the post of compilation clerk in scale Rs. 1200-2300 (Revised 4500-7000) and to provide all the benefit as are admissible to the post and pay scale.
- d. to issue any suitable order or direction as this Hon'ble Court may deem fit and proper under the circumstances of the case.
- e. to award cost of the application to the applicant."

3. Briefly stated, the applicant was initially appointed as Field Worker (Male) in Family Welfare Section (N.E. Railway) in the year 1986. He continued to work as such till May, 1989. A notification dated 05.06.1989 was ^{issued} informing the applicant to appear in Examination/Suitability test for promotion to the post of Senior Clerk (Rs. 1200-2040). The applicant appeared in the said written test/suitability test and declared successful and consequently promoted to the post of Senior Clerk; copy the result Examination/Test dated 28.02.1989 is Annexure A-2/Compilation B.

4. Vide para 4.5 of the OA, the Applicant contends that his promotion from the post of Field Worker (Male) was against clear vacancy of permanent post of senior clerk in the pay scale of Rs. 1200-2040 (at the stage of Rs. 1200/-) from the date of joining the

post; copy of order of promotion dated 06.07.1989 filed as Annexure A-3/Compilation B. According to the applicant he joined the post and discharged his duties as senior clerk. The post of compilation clerk in the pay scale of Rs. 1400-2300 having fallen vacant (due to transfer on promotion of one Sri D.V.P. Singh). The applicant took over charge under order dated 01.01.1991 passed by Senior Medical Superintendent, Varanasi (Annexure A-4/Compilation B). Arrangement was to continue till regular/ permanent appointment was made on the said post of compilation clerk vide order dated 11.05.1992, Annexure 5/compilation B. Orders were also passed directing payment of officiating allowance to the applicant pertaining to the post of compilation clerk. According to the applicant, he has been continuously discharging his duties attached to the post of compilation clerk and he is being paid salary accordingly.

5. It appears that certain orders were passed by Director General (RHS), Railway Board (viz order dated 11.05.1984 freezing vacancies (Annexure A6/compilation B but the General Manager, ignoring aforesaid circular dated 11.05.1984) proceeded to conduct suitability test for promotion to the post of Senior Clerk (from the post of Field Worker). The applicant was also required to appear in 'Examination'/'suitability test' again and being aggrieved, he filed OA No. 1811/94 which was dismissed vide order dated 05.01.2001 as

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'infructuous'. Meanwhile the Respondents-Authorities proceeded to hold selection on the post of 'Extension-Educator'. The applicant again approached this Tribunal by filing OA No. 804/98 claiming suitable direction in the nature of mandamus commanding the respondents to permit the applicant to appear in the selection for the promotion to the post of Extension Educator (Rs, 1600-2660). The said OA was also dismissed as infructuous vide order dated 08.08.2000 with the observation that grievance of the applicant (which is subject matter of the present OA) cannot be allowed to be raised by amendment in the said OA No. 804/98.

6. In the above backdrop, the applicant has filed present OA contending that he is being illegally deprived of privilege of promotion over the post of Senior Clerk and illegally compelled to appear in the written test/suitability test for the post of Senior Clerk depriving the applicant of privilege having passed said written/suitability test (for promotion to the post of Senior Clerk) way back in the year 1989. It is also contended that the applicant holds lien on the post of senior clerk and entitled for consideration for the post of 'Compilation Clerk' which he is when holding and discharging his duties as such since July 1991.



7. Vide para 4.7 of the OA it is being reiterated that the applicant is entitled to continue in the post of 'Compilation Clerk' (Rs. 4500-7000). Vide para 4.19, it is contended that several other persons, who were selected and appointed on the post of Field Worker subsequent to the applicant and were junior to the applicant, appears to have been placed in the panel of subsequent candidates appeared on the basis of written test/suitability test for the post of senior clerk.

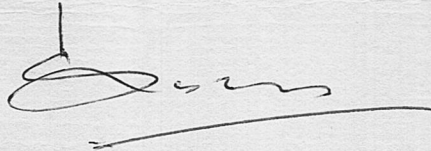
8. Be that as it may we find that the pleadings in this OA are not intelligible enough and rather confusing. Counter affidavit also (filed on behalf of the respondents) has also raised various factual issues. The applicant, on the other hand, is working on the post of compilation clerk under interim order dated 14.12.1994 in OA No. 1811/94 and respondents were directed not to revert the applicant below the post of senior clerk. The respondents' authority, as noted earlier, have not considered the grievance of the applicant though they can do so effectively being in possession of original record.

9. In the result, we direct the applicant to file a comprehensive representation (raising his grievance being the subject matter of the present OA) alongwith certified copy of this order before respondent No. 3/Chief Medical Director, North Eastern Railway,

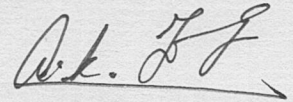


Gorakhpur (as suggested by the respondents' counsel) within a period of six weeks from today, and the said authority shall decide the same in accordance with law within a period of three months from the date of receipt of representation (as stipulated above). Decision taken shall be communicated to the Applicant forthwith.

10. OA is disposed of without taking merit of the case. No cost.



Member (A)



Member (J)

/pc/