

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 3rd DAY OF APRIL, 2001

Original Application No.728 of 2000

CORAM:

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

HON.MR.S.BISWAS, MEMBER(A)

M.L.Dwivedi, son of late Shri Murari Lal Dwivedi, a/a 58 years, R/o 184 Outside Datia Gate, Jhansi, working as Accounts Officer(Construction), Central Railway, Jhansi.

... Applicant

(By Adv: Shri I.M.Kushwaha)

Versus

1. Union of India through the General Manager, Central railway Mumbai CST
2. Financial Advisor & Chief Accounts Officer, FA&CAO Office, 3rd floor, New Administrative Building D.N.Road, Mumbai CST.

... Respondents

(By Adv: Shri G.P.Agrawal)

O R D E R(Oral)

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

The facts in short giving rise to this application are that applicant was serving as Asstt. Accounts Officer Group 'B' in the scale of 7000-10,000. The respondents decided to elevate him to the upgraded post in the scale of 8000-13,5000 by order dated 27.5.1998. The applicant was allowed to officiate as Accounts officer w.e.f. 31.3.1997 alongwith 32 other persons. The applicant continued on this post, however respondents by order dated 5.11.1999 issued another list of Accounts officers consisting of 89 persons, which did not include the name of the applicant. Though others who were promoted by order dated 27.5.1999 were included in the list. The respondents also stoppe

..p2

the payment of higher grade, aggrieved by which applicant approached this Tribunal.

Shri G.P.Agrawal, learned counsel appearing for the respondents has submitted that in view of the Railway board's order dated 9.12.1998 group 'B' officers were to be selected by a Committee of Head of Departments and as the committee has not approved the applicant for the promoted post his name has not been included in the list. It has also been submitted that several others like applicant have also not been included.

The learned counsel for the applicant, on the other hand, submitted that as per procedure applicable on 27.5.1998 applicant satisfied the norms and he was promoted and on the promoted post he has served for two years, he could not be reverted on the basis of the changed procedure without giving any opportunity of hearing. It is also submitted that during the period of two years he has served, <sup>and</sup> nothing adverse has been indicated against him.

We have considered the submissions of the learned counsel for the parties. In our opinion, the submission of the learned counsel for the applicant has merit. It is not disputed that applicant was promoted by order dated 27.5.1998. He has served on the post for about two years. In the order dated 27.5.1998 there is Note mentioned as I which reads as under:-

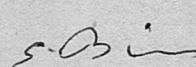
Note: I."The above officers are eligible for option for fixation of pay to higher grade on their promotion in terms of para 2 & 5 of Board's letter No.E(P&A) II P3 dated 31.12.1987. They may exercise their option within one month from the date he takes over the charge to higher grade."

Thus, it appears that the norms for promotion to the higher grade was non selection post and applicant was found fit as per procedure applicable then. If the respondents

:: 3 ::

as per procedure applicable then. If the respondents change the procedure <sup>subsequently</sup> ~~specifically~~, he could not be deprived of the benefit already granted unless ~~he~~ there was something adverse against him on the basis of the services rendered by him during the period of two years. In our opinion, it cannot be disputed that it amounted to reversion which could not be done without giving opportunity of hearing and for the cogent reasons. Thus, we find merit in the OA. It is accordingly allowed. The respondents are directed to treat the applicant as Accounts officer in terms of the order dated 27.5.1998 and pay him salary accordingly.

However, there will be no order as to costs.

  
Dated: 03.4.2001 MEMBER(A)

  
VICE CHAIRMAN

/Uv/