

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 01st day of JUNE 2004.

original Application no. 1106 of 2003.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman  
Hon'ble Mr. D.R. Tiwari, Member (A)

Jagat Pal, S/o Late Shiv Balak,  
R/o 353B Balaipur Railway Colony,  
Civil Lines, Allahabad. Posted as  
Chief Public Relation Officer/Deputy Chief Operations  
Manager, Central Organization for Railway  
Electrification,  
ALLAHABAD.

... Applicant

By Adv : Sri A. Tripathi  
Sri B. Budhwar

O R D E R

1. Union of India through Secretary,  
Ministry of Railways, Rail Bhawan,  
New Delhi.
2. Railway Board (Rail Bhawan), New Delhi  
through its Chairman.
3. General Manager, Central Organization for  
Railway Electrification, Allahabad.
4. Sri Rajendra Kumar Meena, Chief Freight  
Traffic Manager (II)/Eastern Railway, Fairlie Place,  
Kolkata.
5. Sri Anurag, Chief Freight Traffic Manager,  
N.C. Rly., Nawab Yusuf Road, Civil Lines,  
Allahabad.
6. Shri Sunil Mathur, Chief Freight Traffic Manager (II),  
N. Rly., Baroda House,  
New Delhi.
7. Sri B.P. Swain, Chief Commercial Manager (PS),  
S.E. Rly., 14 Strand Road,  
Kolkata.

(S)

8. sri S. Anantha Raman, Chief Passenger Traffic Manager, Southern Railway, Chennai.
9. sri P.S. Mishra, Chief Freight Traffic Manager, E.C. Rly., Hajipur (Bihar).
10. sri Purshottam Gupta, Chief Passenger Traffic Manager, N. Rly., Baroda House, N. Delhi.
11. sri Sarla Balagopal, Chief Commercial Manager (FM), Southern Railway Chennai.
12. sri M.N.S. Ray, Chief Commercial Manager (G), South East, Central Railway, Bilaspur.
13. sri P.K. Sinha, Additional Divisional Railway Manager, Ranchi Division Eastern Railway, Barkakana (Jharkhand).
14. sri Ajeet Kumar Jain, Senior Professor (T) Railway Staff College, Badodara (Gujarat)
15. sri Yash Vardhan, Group General Manager, Container Corporation, Vth Floor, New Administrative Building CST, Mumbai.
16. sri G.C. Ra, Chief Operations Manager (HQ), East Coast Railway, Chandra Shekhar Pur Bhubaneswar (Orissa).
17. Sri Rajendra Kumar Soni, Chief Safety Officer, Central Railway, New Administrative Building CST Mumbai.
18. sri Rakesh Tripathi, Addl. Divisional Railway Manager, N.E. Rly., Varanasi.
19. sri G. Laxmi Narayan, Chief Commercial Manager (Catering), Central New Administrative Building CST Mumbai.
20. sri B.K. Joshi, Chief Freight Traffic Manager, South Eastern Railway Garden Reach, Kolkata.

... Respondents

By Adv : sri P Mathur

(P.M.)

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ORDER

Justice S.R. Singh, VC

The applicant, a Dy. Chief Operating Manager is aggrieved by denial of promotion to Senior Administrative Grade and accordingly has instituted this OA for setting aside the order dated 31.1.2003 (wrongly typed in the relief clause as 31.1.2002), whereby the respondents no. 4 to 20 have been granted promotion in Senior Administrative Grade and for issuance of a direction to the respondents to consider the claim of the applicant for promotion to Senior Administrative Grade from the date his juniors have been promoted to the said grade i.e. w.e.f. 31.1.2003 with all consequential benefits attached thereto by ignoring the downgrading of entries from 'Very Good' to 'Good' for the year 1999-00, 2000-01 and 2001-02.

2. It is not disputed that bench-mark prescribed in the present case is 'Very Good'. The applicant, it is further not disputed, was awarded 'Very Good' entry in the year 1998-99. In the case of UP Jal Nigam & Ors Vs. Prabhat Chandra Jain & Ors. 1996 (2) SCC 363 their Lord-ship's of Hon'ble Supreme Court have held that downgrading of entries could be treated as adverse in case the Benchmark is prescribed and further that in such cases reasons for downgrading must be recorded in the personal file and the employee must be informed of the charge in the form of advice failing which the downgrading cannot be sustained. The applicant was not informed of the downgrading of his entries in the year 1999-2000 and in the subsequent two years while he was graded as 'Very Good' in the year 1998-99.

3. In view of the decisions of the Hon'ble Supreme Court in the case of UP Jal Nigam & Ors (supra) downgrading of entries

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cannot be sustained for the reason that neither the applicant was informed of his being down graded in the form of advice nor is there anything on the record to show that reason recorded for such a change in the personal file of the applicant.

4. Assessment chart prepared by the D.P.C. Produced by Sri P. Mathur before us during the course of argument goes to show that the applicant was graded as 'F' i.e. fit for promotion but he was allowed only 17 marks on the basis of down graded entries. Since the applicant was down graded for the first time in the year 1999-2000 and he was not communicated the down graded entry and there is nothing to show that reason was recorded for such down grading, the entry for the year 1999-2000 cannot be sustained. The applicant has to be graded afresh after affording him an opportunity. In case he is graded as 'Very Good' in the year 1999-2000 his entries in the subsequent years too would have to be reviewed.

5. Non promotion of the applicant to the Senior Administrative Grade is vitiated due to reason that the down grading of the applicant in the year 1999-2000 was not communicated to him. He will be entitled for reconsideration by holding a review DPC in case his representation against the down graded entries for the year 1999-2000 and for subsequent years is allowed.

5. Accordingly, the OA succeeds and allowed in part. The adverse entry for the year 1999-2000 is quashed. The respondents are directed to communicate the entry to the applicant who may file his representation for consideration

RFJ

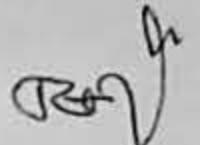
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by the Competent Authority who shall give appropriate grading in accordance with law afresh for the year 1999-2000 and in the subsequent years 2000-2001, 2001-2002 & 2002-2003 depending on the out come of the representation and in case the representation finds favour with the Competent Authority a review DPC shall be arranged in accordance with law. This exercise shall be completed within a period of four months from the date of communication of this order.

6. There shall be no order as to costs.

  
Member-A

  
Vice-Chairman

/pc/