

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 15 day of April **2010.**

**HON'BLE MR. A.K. GAUR, MEMBER -J
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER- A**

ORIGINAL APPLICATION NO. 1287 OF 2003

1. Mukhtiar Chand S/o Late Sardara Ram, Deputy CSTE IRCOT, New Delhi.
2. Pramod Prakash Goel, S/o Late Ved Prakash, Resident of 7-1/B S.N. Marg, Railway Colony, Allahabad.

.....Applicants.

VE R S U S

1. Union of India through Chairman, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
2. General Manager, Central Organization of Railway Electrification (CORE), Nawb Yusuf Marg, Allahabad.
3. General Manager, North Central Railway, Allahabad.

.....Respondents

Advocate for the applicants: Sri Ajay Rajendra

Advocate for the Respondents : Sri P. Mathur

O R D E R
BY HON'BLE MRS. MANJULIKA GAUTAM, MEMBER- A

The two applicants were originally appointed on Class III post in Northern Railway. Their grievance started when the Railway Board by its notification dated 18.12.2002, appointed and promoted the applicants and some others as Junior Scale Grade 'A' Officers on substantive post in accordance with their



seniority in Group 'B' service. The applicant No.1 has been appointed against vacancy pertaining to the year 1989 and applicant No.2 has been promoted on the basis of vacancies pertaining to the year 1990. According to the notification, their promotion is to be effective from 23.7.1992, which is the date when the approval of the Union Public Service Commission was received to the recommendation of the Departmental Promotion Committee. By filing the present O.A., the applicants have sought the following main relief (s):-

- "(a) This Hon'ble Tribunal be pleased to issue order or direction quashing the order/notification dated 18.12.2002 issued by the Railway Board to the extent it directs and provides that the promotion of the applicants shall be effective only from 23.7.1992.*
- (b) This Hon'ble Tribunal be pleased to declare and direct the respondents to promote the applicants and give all other benefits of fixation of pay and seniority etc. effective from the date the last candidate was appointed through direct recruitment in the year 1989 and 1990 respectively".*

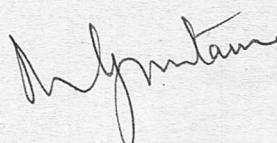
2. In the detailed counter affidavit filed by the respondents, the justification for the notification dated 18.12.2002 issued by the Railway Board is explained. It has been stated that promotion from Group 'B' to Group 'A' are filled through selection process, which involves a Departmental Promotion Committee meeting, which consists the Chairman or Member of Union Public Service Commission and 3 representatives of the Ministry of Railways. Since numbers of Group 'B' Officers is very large and they belong to various Railway Zones, processing of 5 years Annual Confidence Report and other requisite documents for all the officers within the zone of consideration takes time and therefore, sometimes Departmental Promotion Committees are



delayed. As per Rule 209 (B) (1) of Indian Railway Establishment Code Volume 1 officers in Group 'B' having three years of non Tutor Service are eligible for consideration in Group 'A'/Junior Scale. Thus it is clear that three years service in Group 'B' makes an officer eligible but not automatically eligible for promotion. The applicants in the O.A. were promoted purely on adhoc basis by General Manager under Rule 204 of Indian Railway Establishment Manual Vol. I. This adhoc appointment is not to be confused with regular appointment to Group 'A' post wherein President of India is the appointing authority in consultation with the Union Public Service Commission on the basis of recommendations made by the Departmental Promotion Committee. Thus the regular promotion of the applicants in the O.A. has been done as per prescribed Rules and Provisions and promotion has been made effective from the date of the approval of the Union Public Service Commission i.e. 23.7.1992.

3. Learned counsel for the applicant has relied on oral judgment dated 7.2.1990 in O.A. NO. 1287 of 2003 decided by Bombay Bench of Central Administrative Tribunal.

4. Learned counsel for the respondents, on the other hand, has referred to the Hon'ble Supreme Court judgment in the matter of **K.K. Vadhera reported in AIR 1990 (i) Vol. 1 S.C.C. 292**. According to which, promotion cannot be given with retrospective effect as well as **Maggi Jangammayya's**



case reported in AIR 1977 Supreme Court page 757.

According to which, no employee has any right to have a vacancy in the higher post filled as soon as the vacancy occurs. It is also pointed out by them that High Court of Andhra Pradesh in writ petition No. 4766 of 2000 allowed the writ petition and dismissed the O.A. NO. 590 of 1998. The matter went up to the Hon'ble Supreme Court of India in Civil Appeal No. 92 of 1997 whereby the orders of the Tribunal were set aside and appeal allowed.

5. Having heard both parties counsel and perused the record on file, we are of the view that the applicants have not succeeded in making out a case for interference in their matter. The entire procedure for promotion from Group 'B' to Group 'A' has been clearly explained by the respondents and has been correctly followed in the matter of promotion of the applicants. No interference is warranted. O.A. is accordingly dismissed. No costs.



Member (A)



Member (J)

Manish/-