

9

Shri Mohorsingh C. Verma,
Retired Station Master,
Vadodara.

: Applicant

Versus

1. The Union of India
Through:
The General Manager,
Western Railway,
Churchgate, Bombay.

2. The Divisional Railway
Manager, Western Railway,
Baroda Division, Baroda.

: Respondents

Coram : Hon'ble Mr. P.H. Trivedi

: Vice Chairman

Hon'ble Mr. P.M. Joshi

: Judicial Member

ORAL ORDER7/7/1989

Per: Hon'ble Mr. P.H. Trivedi

: Vice Chairman

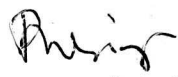
Heard Mr. J.C. Sheth and Mr. N.S. Shevde learned
advocates for the applicant and the respondents respectively.


The petitioner has been already given the benefits,
so far as the promotion to the post of Station Master's
scale Rs. 455-700 is concerned. On the expiry of the penalty
on 11/6/1980 he has also been subsequently promoted and
given the benefits in terms of the further promotion
to the ~~post~~ ^{of Rs.} scale 550-750 from the due date. His contention
now is that ^{for} the post of Station Master in the scale of
Rs. 700-900 he was not considered for placement on the
panel declared by letter dated 11/6/1984 by which those who
were so empaneled were given the benefits from August, 1983
on the ground that DAR case was pending against him.
The petitioner's contention is that DAR case was connected
with a criminal case in which he was acquitted and the
DAR proceedings admittedly by the respondents have not
resulted in any punishment for the petitioner. In fact
when on the due date the petitioner was informed by
letter at page 11 Annexure 'C' dated 20.7.1981 that
it was only contemplated to issue SF 5 (major penalty
charge-sheet) to him but this should not have excluded

(9)

him from the consideration for the promotion. In view of the fact that the petitioner has been acquainted in the criminal case and in the departmental proceedings he has not been ^{held} on ~~guilty~~, it is appropriate that his claim for being deemed to have been placed on the panel needs to be further considered by the competent authority. In doing so the crucial question which arises is whether the promotion to the post of Station Master in the scale of Rs-700-900 as a result of the upgradation scheme and modified selection procedure entitled him to be placed on such a panel on the basis of his record. Whether the relevant Departmental Promotion Committee judge the petitioner's ^{case} ~~witness~~ only on the consideration of the pending DAR proceedings in the criminal case and came to the conclusion of his lack of fitness or whether any such conclusion was found ^{independently} ~~in time~~ of such DAR proceedings or criminal case needs to be a point to which the competent authority has to apply its mind. We do not find the question of any reservation regarding placing the petitioner on the panel if there are any such circumstances ~~independently~~ of the DAR proceedings ~~or~~ but if so they are not recorded ^{ed in} on this case and needs to be specifically ascertained and referred to in coming to the conclusion that the petitioner is not to be placed on such panel. On the other hand if the petitioner has been excluded from the panel on the consideration that he was involved in DAR proceedings and criminal case on which he was ~~acquainted~~ and not found guilty and the modified selection procedure on the basis of his record he has ^{or} to be found fit on the consideration of seniority cum fitness the petitioner has a clear case for inclusion in the panel. We would however ask the competent authority to go into the matter on the basis of the above observations ^{or} and after ascertaining from the records the facts relevant as suggested

above to give a speaking order regarding the benefits of the petitioner as on ^{the} ~~which~~ ^{on which} date the panel was drawn up namely the order dated 11/6/1984 and give the petitioner the benefits of the promotion as on 1/8/1983 or such date as may be applicable to those who are placed on that panel. We direct that the Divisional Railway Manager (E) to examine the case and pass ^{give} speaking orders within three months of the date of this order. With this observations and direction, the case is disposed of.


(P.H.Trivedi)
Vice Chairman


(P.M.Joshi)
Judicial Member

a.a.bhatt