

CENTRAL ADMINISTRATIVE TRIBUNAL

~~HYDRAULIC BENCH DEEN~~

AHMEDABAD BENCH, AHMEDABAD.



O.A No.

168

1987.

~~Ex No.~~DATE OF DECISION 23.10.1990.Satyanarayan Shivnarayan PetitionerMr . D.P. Padhya Advocate for the Petitioner (s)

Versus

Union of India RespondentMr. B.R. Kyada Advocate for the Respondent(s)

CORAM .

The Hon'ble Mr. P.H. Trivedi Vice Chairman

The Hon'ble Mr. D.K. Agrawal Judicial Member

JUDGMENT

O.A./168/87

Satyanarayan Shivnarayan,
Residing at Katosan Road,
P.W.I., W.Rly. Katosan Road. .. Applicant
(Advocate - Mr. D.P. Padhya)

Versus

Union of India,
Through, General Manager,
W.Rly., Churchgate,
Bombay - 400 020. .. Respondent
(Advocate-Mr. B.R. Kyada)

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman
Hon'ble Mr. D.K. Agrawal .. Judicial Member

O R D E R

Date : 23.10.1990

Per : Hon'ble Mr. D.K. Agrawal .. Judicial Member

The applicant's grievance in this application under section 19 of the Administrative Tribunals Act, 1985, is to the effect that he has been promoted w.e.f. 10.10.1985 while he was due to^{be} promoted w.e.f. 1.1.1984 i.e. the date when his junior was promoted as P.W.I. Gr. II scale Rs. 550-750. The respondents have opposed the application alleging that the petitioner was not found suitable and therefore his next junior was promoted w.e.f. 19.9.1984. They ~~had~~ however, alleged that the petitioner ~~having~~ ^{was} ~~been~~ found suitable w.e.f. 10.10.1985. We have, however, not able to understand as to what made the petitioner unsuitable on 19.9.1984 nor as to what made him suitable on 10.10.1985. We can ofcourse gather from the pleadings of the respondents that the petitioner was given adverse remarks for the

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year 1982-83. Even if it be so, we have not been able to find out as to whether the adverse remarks for the year 1982-83 were communicated to the petitioner before the promotion of the petitioner's junior was taken up. The perusal of the Annexure R-3 indicates that the adverse remarks, if at all communicated, were communicated to the petitioner on 13.12.1984. On the other hand, Annexure R-1 indicates that promotion/empanelment order was made on 24th August, 1984. If it be so, it would mean that the uncommunicated adverse remarks were taken into account for judging the suitability or unsuitability of the petitioner. In this view of the matter, we are of the opinion that it is a fit case in which the petitioner be deemed to have been promoted from the date his next junior was promoted to the post of P.W.I. Gr. II, but we make it clear that this deemed promotion would count only for the purpose of seniority, future increments and future promotion, but the petitioner would not be entitled to the back wages.

2. The plea of limitation has^{also} been raised, but we are not able to persuade ourselves to the contention of the learned advocate for the respondent. The reason is that the cause accrued to the petitioner on 10.10.1985 when he was promoted from a subsequent date and not from the due date. Thereafter the petitioner gave a legal notice on 8.4.1986 and the petition was filed on 6.4.1987. Taking into account these dates, we are of the opinion that the petition is within time.

3. In the result, we direct the respondents to

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deem the petitioner to be promoted to the post of P.W.I. Gr. II from the date when his junior was promoted on the said post for the purpose of seniority, future increments and future promotion, but he will not be paid back wages. The application is disposed of accordingly. Parties will bear their own costs.

D K Agrawal
23. X. 90.
(D K Agrawal)
Judicial Member

Phrivi
(P H Trivedi)
Vice Chairman

*Mogera