

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A./T.O.A. No. 112 1988

(1)

I K Subh Applicant(s)

Y V Shah

Versus

Union of India & Ors Respondent(s)

N S Shinde

Sr.No.	Date	Orders
	19/2/88	Examination of party (Copy served)
	11/3/88	Issue notice on the respondents as per Court order dt: 19/2/88 → RPAD received from respon. No. 1.
	14/3	Pl. issue notice reg. ad 112 (Copy) relinquish to respo.
	15/3/88	RPAD received from respon. No. 1.
	26/4	Mr Shinde and Mr Shah are present Petition is filed Now for filing respondent on 26/4/88 V2
	31-3-89	F/H I.R. to both sides. 15/4. u.v. 9/3/89 <u>Defers</u> <u>reg. date &amp; hearing</u> <u>Applicant's order</u> V2 13/4

O.A./112/88

(2)

CORAM : Hon'ble Mr. P.M. Joshi .. Judicial Member

19/02/1988

Heard Mr. Y.V. Shah, the learned counsel for the petitioner. Pending admission, issue urgent notice to the respondents to show cause why the application should not be admitted returnable on 11.3.1988.

  
( P M Joshi )  
Judicial Member

\*Mogera

(M)

Coram : Hon'ble Mr. P.M. Joshi : Judicial Member

11/3/1988

Heard Mr.Y.V.Shah the learned counsel for the applicant. The points raised in the application deserves consideration, hence, the application admitted. Issue notices to the respondents returnable on 15/4/1988. The respondents are required to file their reply before the said date. The case be posted on 15/4/1988 for further direction.

  
(P.M.Joshi)  
Judicial Member

a.a.bhatt

OA/112/88

Coram : Hon'ble Mr.P.M. Joshi : Judicial Member

31/3/1989

Mr.Y.V. Shah and Mr.B.R. Kyada the learned counsel for the petitioner and the respondents respectively present. Mr.B.R. Kyada seeks time. The case be posted for final hearing on 14-4-1989.

  
( P.M. Joshi )  
Judicial Member

AIT

I.K.Sobti,  
Executive Engineer (Sr.scale),  
Prestressed Concrete Sleeper (M.G.)  
Factory, Western Railway,  
Opp. 'D' Cabin,  
Sabarmati,  
Ahmedabad - 19.

.....Petitioner

( Advocate : Shri Y.V. Shah )

Versus

1.The Secretary,  
Railway Board,  
Rail Bhavan,  
New Delhi.

2.Union of India,  
through the General Manager(E),  
Western Railway,  
Churchgate,  
Bombay - 20.

....Respondents

( Advocate : Shri B.R.Kyada )

Coram : Hon'ble Mr.P.M. Joshi : Judicial Member

O R A L - O R D E R

Date:14-04-1989

Per : Hon'ble Mr.P.M. Joshi : Judicial Member

The petitioner Shri I.K. Sobti, holding the post of Executive Engineer, Senior scale (Rs.1100-1600) serving in Western Railway, at Sabarmati (Ahmedabad), has filed this application on 8.2.1988, under Section 19 of the Administrative Tribunals Act, 1985. He claims that he was entitled to the promotion and Senior scale by being placed on the panel dated 14.10.1977. However, in the meantime the employees who were his juniors were given ad hoc promotion. According to him in pursuance of the directions of the High Court in S.C.A./3104/80, the Respondents-Railway Administration has enlarged the panel vide orders dated 6th June 1986 (Annexure-A-3), wherein he was placed at Sl.No.40. It is alledged that the persons below him i.e. from Sl.No.41 to 65 were promoted earlier to him and their pay has been fixed higher than him. He has therefore, prayed that the

respondents be directed to grant pro-forma fixation of pay and arrears of wages accrued thereon and other consequential benefits with retrospective date from 15.2.1983, from the date his juniors' were promoted to senior scale, Class-I.

2. The Respondents-Railway-Administration in their counter denied the averments and allegations made against them. According to them, the promotions were made in order of seniority in Class-II, subject to fitness and the petitioner was not coming within the field of eligibility on the basis of seniority of all those who were put to officiate as Assistant Engineers on ad hoc basis. It was therefore, submitted that the petitioners were not entitled to the reliefs as prayed for.

3. When the matter came up for hearing, Mr.Y.V.Shah and Mr.B.R. Kyada the learned counsel for the petitioner and the respondents respectively, are heard at a considerable lenght.

4. The main grievance of the petitioner is that he has been promoted to the senior scale (Rs.1100-1600) with effect from 14.7.1986, in pursuance of the panel which was enlarged vide order dated 6.6.1986. But it is his grievance that in the meantime, the employees shown at Sl.No.41 to 65 in Annexure-A-3, were promoted earlier to him and the fixation of pay in their case is much higher than Rs.1450/- as fixed in his case.

5. It is pertinent to note that the petitioner has not produced the orders of promotion and fixation of pay in the case of the employees shown at Sl.No.41 to 65. He has however, indicated the date of promotion in respect of candidates shown at Sl.No. 59 to 65 and also in the case of candidate Shri L.C.Jethwani who is shown

at Sl. No. 47, was promoted on 11.4.1985. Admittedly, all these employees are junior to the petitioner. The respondents have not furnished the requisite materials showing the dates of promotion and the fixation of pay made in respect of the employees shown at Sl. No. 41 to 65. For the sake As a matter of illustration, it is stated by the petitioner that his junior Shri L.C. Jethwani was promoted on 11.4.1985, whereas he (the petitioner) was promoted with effect from 14.7.1986 and on the basis thereof there is an obvious discrepancy and anamoly in the fixation of pay which has to be removed and the benefit if any has to be given to him. As stated earlier in absence of relevant materials, it is not possible for the Tribunal to pass specific direction <sup>for</sup> removing the nature of anamoly and the discrepancy, if any. The Respondents-Railway Administration is supposed to have all the relevant materials relating to the dates of promotion and the fixation of pay made in respect of candidates appearing at Sl. No. 41 to 65 of Annexure-A-3 dated 6th June 1986. It is in the fitness therefore, to pass the following directions :

"The General Manager, Western Railway, shall nominate the officer competent to consider the question of fixation of pay in respect of the petitioner's claim, <sup>✓</sup> ~~claim~~, <sup>✓</sup> ~~claim~~ will call for all the materials including the orders of promotion and the fixation of the pay of the employees shown at Sl. No. 41 to 65 in Annexure-A-3, and <sup>after</sup> advertising to them, he shall pass a speaking order within a period of 4 months from the receipt of this order.

While rendering a speaking order the competent authority shall take into consideration the present application of the petitioner (O.A. 112/88 with all its enclosurers appended to it) as his representation. 1/

2  
:: 4 ::

With the above directions the application stands disposed of. There will be however no order as to costs.

Registry instructed to send a copy of this order to the General Manager, Western Railway, and retain the acknowledgement on record.

  
( P.M.Joshi )  
Judicial Member

AIT