

III

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 356 of 1988

Date of decision : April 26, 1990.

M.R. Redden ... Applicant.
Versus
Union of India and others ... Respondents.
For the applicant ... Mr. M. M. Basu, Advocate.
For the respondents ... M/s. D. N. Misra,
S. C. Samantray,
D. K. Mohanty, Advocates.

C O R A M:

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

--

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

N. SENGUPTA, MEMBER (J) The applicant has sought the reliefs of being given the promotional benefits with effect from the date of issue of Annexure-4, for a direction to restore him to the correct position in the seniority list by correcting Annexure-5 and for further direction to consider him for promotion to the Grade of Electrical Foreman-A.

*Neelam Sengupta
26/4*

2. The allegations in the application, put in brief,

are that he was first appointed as a Trade apprentice Grade II in November, 1956 and in due course was promoted to the rank of Train Lighting Inspector in August, 1970. His seniority in that cadre was as per Annexure-1 to the application. He was senior to one I. Adinarayana. On 10.2.1982 he was promoted to officiate as Electrical Chargeman 'A' and I. Adinarayana was promoted as Assistant Electrical Foreman, a post in the cadre of Electrical Chargeman 'A' from 21.3.1982. In January, 1984 a disciplinary proceeding was initiated against him and after the enquiry, an order of his removal from service was passed on 22.1.1985. Against that order of removal he preferred an appeal and the appellate authority reduced the punishment to one of compulsory retirement. After the order of the appellate authority, he moved the Hon'ble High Court of Calcutta in its writ jurisdiction, the application after the coming into force of the Administrative Tribunals Act, 1985 stood transferred to the Central Administrative Tribunal, Calcutta Bench and was numbered as T.A.1311 of 1986. That Bench of the Tribunal directed to reinstate the applicant with full benefits. This order was passed on 24.9.1987. In pursuance of that order of the Calcutta Bench of the Tribunal, he was reinstated in service on 23.10.1987 and posted as a Train Lighting Inspector. During the period of pendency of the disciplinary proceeding and the writ petition and that of the Transferred application some others, including juniors to him, were promoted to the next higher rank. A copy of the promotion order is at Annexure-4 to the application

Abdul Sattar
26/4/90

which is dated 14.9.1987. The grievance of the applicant when is that he was directed by the Calcutta Bench of the Tribunal to be reinstated with full benefits, he should have been promoted with effect from the date his juniors were promoted to the next higher rank. The respondents on 20.8.1988 published a provisional seniority list against which he made an objection. Thereafter, again another seniority list was published by Respondent No.3 on 9.9.1988 where his (applicant's) name was not found. One promotional post became available and for filling that post name of Respondent No.4, I. Adinarayana was being considered. The applicant has further averred that through the departmental channel he has not been able to get the relief, he has been ~~subjugated~~ ^{obliged} to file this present application.

3. The official respondents i.e. Respondents 1 to 3 have filed a counter in which it has been alleged that after reinstatement of the applicant in service, the Chief Personnel Officer (Electrical), South Eastern Railway, Garden Reach was duly informed to insert the name of the applicant in the integrated seniority list of Assistant Electrical Foreman in the scale of Rs.1600-2600/- by a letter dated 9.12.1988 and that it was expected that in the next publication the applicant's name would figure in the scheduled place. They have alleged that in the mean time the name of the applicant has been inserted at its proper place in the provisional seniority list vide Annexure-C. With regard to the trend of promotion, the case of the respondents is that seniority is not only ^{claim} _{the}

Abdul
Abdul
26/4

the criteria but promotion is to be made on merit cum seniority basis. In order that a person will occupy a promotional post, he has to succeed in a suitability and selection test for such post. In the counter it has been stated that the applicant has passed one test for which recommendation for promotion has already been made, if the recommendation is accepted and the applicant passes the next test, promotion will be ordered in normal course.

4. We have heard Mr. M. M. Basu, learned counsel for the applicant and Mr. D. N. Misra, learned Standing Counsel for the Railway Administration. From the narration of facts made above, it would be clear that the case of the applicant is that while a departmental proceeding and the writ petition were pending, some persons were promoted and he was not promoted though his immediate junior I. Adinarayana got the promotion. From Annexure-C to the counter it would be found that the applicant was placed just above I. Adinarayana in the seniority list. There is also no dispute that I. Adinarayana has already been promoted. As the applicant has been superseded and as it has already been held by the Calcutta Bench of this Tribunal that the applicant should get all service benefits, as a necessary corollary, it would follow that his case for promotion with effect from the date his immediate junior was promoted should be considered. The averments in second sub-para to paragraph 5 of the counter are not quite clear. Therefore, we would observe that if I. Adinarayana has been promoted without passing any test,

Pls. see p. 4.

VII

though on ad hoc basis, the case of the applicant for such ad hoc promotion with effect from that date should be considered and he should be given all the service benefits including promotions falling due between the date of his removal from service and the date of promotion of I. Adinarayana. Directions ~~are~~ issued accordingly to Respondents 1 to 3. This application is accordingly disposed of leaving the parties to bear their own costs.

Murali 26.4.90
Vice-Chairman

Abdus 26.4.90
Member (Judicial)

