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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,  
J\_O\_D\_H\_P\_U\_R.

Date of Order : 29.08.2000

O.A. No. 285/1995

Chiranji Lal S/O Shri Khairati Lal, aged 44 years,  
Head Clerk, Grade Rs1400-2300 (RPS) in Personnel Branch  
of Divisional office, Northern Railway, Bikaner, R/O  
Gali No.3, House of Shri Budh Ram, Rampura Basti, Bikaner.

... Applicant

Vs

1. Union of India through General Manager,  
Headquarters Office, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway,  
Divisional Office, Bikaner.
3. Sr. Divisional Personnel Officer, Northern  
Railway, Bikaner Division, Bikaner.
4. Shri Harpal Singh, Asstt. Supdt., Personnel  
Branch, through Divisional Personnel Officer,  
Northern Railway, Bikaner.

... Respondents

Mr. Y.K. Sharma, Counsel for the Applicant.

Mr. R.K. Soni, Counsel for the Respondents No. 1 to 3  
None is present for Respondent No.4.

CORAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman  
Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

( PER HON'BLE MR. GOPAL SINGH )

In this application under Section 19 of the  
Administrative Tribunals Act, 1985, applicant Chiranji Lal  
has prayed for setting aside the impugned order dated

*Gopal Singh*

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02.5.95 (Annexure A/1) and for a direction to the respondents to promote the applicant to the post of Assistant Superintendent Grade Rs.1600-2860 (RPS) with effect from 01.3.93 under the modified selection procedure in the wake restructuring of cadres, with all consequential benefits.

2. Applicant's case is that he was initially appointed as Lower Division Clerk with the respondent-department on 18.9.82. He was promoted as Senior Clerk on 29.12.83 and as Head Clerk w.e.f. 1.1.84. A cadre restructuring scheme in Group C and D cadres was introduced by the respondents, the scheme being effective from 1.3.93 and a modified selection method was prescribed for promotion to selection and non-selection posts. This modified selection method provided selection on the basis of service records and confidential reports without holding of written test or viva voce. It further provided that promotion under the scheme will be based on confidential reports of last three years i.e. 1989-90, 1990-91 and 1991-92, out of which at least two should be good including the last Confidential report. In case the last C.R. is not good then confidential reports of last five years should be consulted and the employee should be considered as fit if all the four CRs except the last C.R. are good. Applicant admits that his last C.R. is adverse. However, his earlier four CRs are good and, therefore, he should have been considered as fit for promotion w.e.f. 1.3.93 under the cadre restructuring scheme. Applicant has also stated that he was served with a chargesheet for major penalty on 2.4.92, which was decided only on 25.1.95 imposing a penalty of withholding of increment for six months effective from 1.1.96. Therefore, the applicant has presumed that he might not have been con-

Capacity

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sidered for promotion w.e.f. 1.3.'93 because of the chargesheet. The applicant submitted a representation on 1.2.'95 in this regard and the same has been rejected by the respondents vide their order dated 2.5.'95, (Annexure A/1). Hence, this application.

3. In the counter, it has been stated by the respondents that the DPC did not find the applicant as fit for promotion under the restructuring scheme effective from 1.3.'93 and accordingly he was not promoted.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. Learned Counsel for the applicant has drawn our attention to Railway Boards' Circular dated 21.1.93 printed as RHE No.13/93 in Bahris Railway Board orders on Establishment, 1993 Edition which provides as under :

"where the penalty imposed is withholding of increment and it becomes operative from a future date, the person concerned should be promoted in his turn and the penalty imposed in the promotional grade for a period which would not result in greater monetary loss."

In the instant case though a chargesheet for major penalty was served on the applicant, but it has resulted into imposition of penalty of withholding of increment for six months effective from 1.1.'96. Hence, the applicant can be given the benefit of promotion from the due date i.e., 1.3.'93. Respondents have, however, stated that the applicant was not found fit by the DPC for promotion under the restructuring scheme effective from 1.3.'93. However, no reasons have been adduced for declaring the applicant as unfit for promotion. This controversy can only be resolved by going through the proceedings

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of the DPC. If the applicant has been declared unfit on the basis of confidential reports then he will have no case. In case he has been declared unfit on account of major penalty chargesheet then his case would be covered by Railway Board Circular dated 21.1.1993 cited supra.

6. We have gone through the DPC file produced before us by the respondents and found that the applicant was declared unsuitable for promotion under the restructuring scheme. The DPC has also indicated the existence of chargesheet (S.F-5), if any, against the concerned candidate. Existence of chargesheet has not been indicated against the applicant. As such it can safely be presumed that the applicant has been declared unsuitable for promotion on the basis of confidential reports. The view of the applicant that four confidential reports out of five are good is his personal belief. In the circumstance we would not like to interfere with the findings of the DPC.

7. In the light of above discussion, we do not find any merit in this application and the same deserves to be dismissed.

8. The Original Application is accordingly dismissed with no order as to costs.

Copy of  
( GOPAL SINGH )

Adm. Member

BS  
(B.S. RAIKOTE)  
Vice Chairman

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REPLC099  
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6/10/2007

Part 6 and 10 destroyed  
in accordance with  
order of the supervisor of  
records office. 11/10/07  
[Signature]  
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