

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of order : 9.12.1996

OA No. 318/95

Abdul Majid ... Applicant.

v e r s u s

1. Union of India - through  
General Manager, Northern Railway,  
Baroda House, New Delhi.
2. The Chief Controller of Stores,  
Northern Railway,  
Baroda House, New Delhi.
3. The Deputy Controller of Stores,  
Northern Railway, Jodhpur.
4. The Assistant Controller of Stores,  
Northern Railway, Jodhpur.

... Respondents.

Mr. R.C. Gaur, Counsel for the Applicant.

Mr. R.K. Soni, Counsel for the respondents.

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman.

Hon'ble Mr. S.C. Vaish, Administrative Member.

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PER HON'BLE MR. S.C. VAISH :

The applicant Abdul Majid is an employee of the respondent Northern Railways and posted at Jodhpur. His present designation is Senior Daftry.

2. Abdul Majid has come to the Tribunal regarding his date of promotion to the rank of Senior Daftry and also against the order dated 4.8.95 (A/1) reverting him from Senior Daftry to Junior Daftry. The facts of the case are that there were two Junior Daftries in the respondent's office. Abdul Majid was senior with his date of birth 7.6.1963 and below him was Udairaj with his date of birth 1.5.1936. When the promotion to

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the rank of Senior Daftry was to be made in the year 1992 then according to the applicant, the entire office accosted him and pressurised him to give a No Objection in favour of Udairaj who was much older man so that he could work as a Senior Daftry for make 20 months. According to the applicant, he did/such a waiver on 24.9.92 which is reproduced below :-

“श्रीमान् उम्म भैरार नियंत्रक,  
उत्तर रेल्वे, जाधिपुर ।

मदोदय,

विषय : भरमोशन तीनीयर दक्षतारी का ।

मैं निबेदन हूँ कि आप अगर श्री उदयराज जूनिहर दक्षतारी को तीनीयर दक्षतारी बनाते हूँ तो मैं 20 माह के लिए कृपा स्तुराज नहीं हूँ क्योंकि 20 माह के बाद श्री उदयराज जी का रिटायरमेंट है। इसलिए आवश्यकता है कि इमार सर्क तीनीयर दक्षतारी की डाउन ग्रेड कर रखी है उत आप ग्रेड करने की महरबानी करें। आपकी बड़ी महरबानी होगी।

The grievance of the applicant is that even after expiry of 20 months when Udairaj retired on 30.4.1994, the applicant Abdul Majid was not promoted. He was promoted only with effect from 27.7.95 and even this promotion has sought to be withdrawn by the respondents by their impugned letter dated 4.8.1995 at A/l.

3. We have heard Shri R.C. Gaur for the applicant and Shri R.K. Soni for the respondents. The learned counsel for the respondents urged that the applicant himself waived promotion and now he cannot seek promotion from the date his junior was promoted. A plain reading of the waiver made by the applicant and reproduced above leads us to a conclusion that the applicant Abdul Majid made a waiver in favour of Udairaj because Udairaj had only 20 months of service. In this respect, the applicant cannot now claim promotion from the same date as Udairaj. We cannot accept the contention of the respondents that the applicant became fit for promotion only on 27.7.95. On behalf of the applicant it has been averred that he was fit for promotion in 1992 and that has not been directly

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controverted by the respondents. We are also not impressed by the arguments of the respondents that there was subsequent discussion between the Management and the Union and the post of Senior Daftry was down graded to Junior Daftry. In 1992 when the applicant Abdul Majid gave a waiver in favour of an older man, the respondents should have been protected his interest on retirement of the older man Udairaj.

4. In view of the above discussion, the application is allowed. The impugned order dated 4.8.95 (A/1) is quashed. Further, the respondents are directed to give to the applicant Abdul Majid the promotion to Senior Daftry with effect from 1.5.94 after the retirement of Udairaj. But he will not draw this pay for the period he was not worked on this post. However, he will get notional increment and be paid alongwith the increments from 27.7.95. As already mentioned above, the seniority of Abdul Majid in the grade of Senior Daftry will count from 1.5.1994.

5. The application is disposed of with the above directions. No order as to costs.

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(S.C. VAISH)  
Member (A)

*GK*  
(GOPAL KRISHNA)  
Vice Chairman

cvr.

Recd copy  
G. C. D.  
B. D. S. G.

Copy of this  
order sent  
on 23.12.96  
and now this  
23.12.96

Part II and III destroyed  
in my presence on 23.12.03  
under the supervision of  
section officer ( ) as per  
order dated 19/3/2003

Section officer (Record)

W.