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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 06.10.2000.

O.A. No. 353/1995

Gordhan Ram S/O Shri Khinya Ram by caste Jat, aged about 52 years, R/O Khari Salwa (Village), Bara Kallan (PO) Jodhpur (District) at present working as Fireman-I (Staff No.2539) at Loco Shed, Merta Road in Jodhpur Division.

... Applicant

Vs

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Manager, Jodhpur Division, Northern Railway, Jodhpur.
3. The Divisional Railway Personnel Officer, Jodhpur Division, Northern Railway, Jodhpur.
4. The Loco Foreman, Locoshed, Merta Road, Northern Railway, Merta Road.

... Respondents

Mr. Ram Kishore Soni, Counsel for the Applicant.

Mr. S.S. Vyas, Counsel for the Respondents.

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 Gordhan Ram, has prayed for quashing/modifying impugned orders dated 16.6.1995 and 16.3.1995 placed at Annexure A/1 and A/2, and for a direction to the respondents to count the ad hoc

Gopal Singh

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period of service as Fireman I since 12.2.'87 as regular service with all consequential benefits like seniority, pay fixation etc. Alternatively, the applicant has prayed for a direction to the respondents to regularize the applicant as Fireman I with effect from 11.8.1991, the date from which persons junior to him namely; Shyamlal, Mota Ram and Abdul Wahab were regularized with all consequential benefits or the applicant be given similar treatment as Chand Khan in matter of seniority and pay fixation.

2. Applicant's case is that he was initially appointed as Engineman on 3.12.'64 with the respondent Railway, and on getting various promotions from time to time he was lastly promoted as Fireman I on ad hoc basis w.e.f. 12.2.87. The respondents had organized a selection for the post of Fireman I in 1990, result of which was declared on 8.8.90 (Annexure A/5). It is the contention of the applicant that names of Shyam Lal, Mota Ram and Abdul Wahab (all junior to the applicant) did not find place in the panel dated 8.8.'90, however, they were regularly promoted as Fireman I vide order dated 11.8.'91 (Annexure A/6), illegally. The applicant was promoted vide order dated 14.6.'93 (Annex.A/8) alongwith Chand Khan and Idan. In this order dated 14.6.93 Hanuman Chand was shown as promoted w.e.f. 26.2.'93. Contention of the applicant is that he is senior to all the above mentioned persons and, therefore, should have been promoted earlier to them. Applicant had earlier approached this Tribunal vide O.A. No.01/95, which was decided on 21.3.'95 with a direction to respondents to consider the representation of the applicant. Representation made by the applicant has been rejected by the respondents vide order dated 16.6.'95 (Annexure A/1). Hence, this application.

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3. In the counter, the respondents have denied the contentions of the applicant. It has been stated by the respondents that S/Shri Shyam Lal, Mota Ram and Abdul Wahab were given regular promotion as Fireman I as they had qualified the selection held in the year 1990. Further since they had qualified selection earlier than the applicant they were assigned seniority over the applicant. It is also stated by the respondents that the applicant has been given regular promotion w.e.f. 14.6.'93, through modified selection procedure and he has also been given the benefit of increments in his pay fixation for the period he worked on ad hoc basis. Thus, the application is devoid of any merit and deserves dismissal, avers the respondents.

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

5. A perusal of departmental file relating to selection held in the year 1990, reveals that the selection was held for 157 posts, (Gen-109, SC-29, ST-19) of Fireman I. There were in all 168 candidates eligible to appear in the selection, 163 candidates appeared in the selection (including Viva), and five candidates did not appear for viva-voce. A panel of 130 candidates (Gen-107, SC-23, ST-0) was approved on 7.8.'90. The names of S/Shri Shyam Lal, Bhanwar Lal S/O Ram Narain, Mukhtiar Ali and Rupa Ram, though qualified in the selection were not placed on the panel declared on 8.8.'90 as they were facing major penalty chargesheet. Thus only a panel of 126 persons was declared. After clearance from major penalty chargesheet the name of Shyam Lal was interpolated in the panel dated 8.8.'90 at Sl. No.67 A vide letter dated 2.5.'91. Further, the names of Mota Ram and Abdul Wahab, though qualified in the selection, were not

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included in the panel because there was only short-fall of two general candidates in the panel declared on 8.8.90 and two general candidates senior to Mota Ram and Abdul Wahab had not appeared for viva voce and a supplementary viva voce was scheduled for them and three others. Thus, these two posts (points) were kept unfilled till the supplementary viva voce date. However, none appeared in the supplementary viva voce test scheduled for 21.2.1991 and thereafter it was decided to place next two qualified general candidates on the panel and accordingly, the names of Mota Ram and Abdul Wahab were interpolated in the panel dated 8.8.'90. It is, therefore, very clear that S/Shri Shyam Lal, Mota Ram and Abdul Wahab had qualified in the selection test, but they were not initially shown on the panel for valid reasons recorded in the office file. It has also been pointed out by the respondents that Hanuman Chand had passed the selection and was placed on the panel dated 23.2.'93 and accordingly, he was promoted as Fireman I w.e.f. 26.2.'93 whereas the applicant was promoted as Fireman I under modified selection procedure, promotion being effective from 1.3.'93. This position has not been contested by the applicant. Thus, the applicant cannot seek parity in promotion, seniority or pay fixation with S/Shri Shyam Lal, Mota Ram, Abdul Wahab and Hanuman Chand. Further, Chand Khan and the applicant were promoted together vide order dated 14.6.'93 (Annexure A/8) and name of Chand Khan appears over the name of the applicant in this order dated 14.6.'93. It is seen from the pay fixation statement placed at Annexure A/2 that Chand Khan was drawing pay of Rs.1200 + Rs.20 PP before promotion as Fireman I whereas the applicant was drawing pay of Rs.1200/- and their pay were respectively fixed on promotion w.e.f. 14.6.1993 at Rs.1325/- and Rs.1275/-. The applicant has not come out

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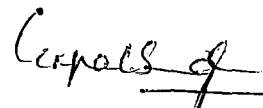
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clearly as to why his pay should be fixed at par with that of Chand Khan.

6. In the light of above discussion, we are of the view that the application is devoid of any merit and deserve to be dismissed.

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


(GOPAL SINGH)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman

J

Received copy
11/10/2007
(For Ram Kishore Soni
Advocate)

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11/10/2007

Part II and III destroyed
in my presence on 11/10/07
under the supervision of
section officer () as per
order dated 15/11/2006

N. K. Soni
Section officer (Records)