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CENTRAL ADMINISTRATIVE TRIBUNAL, JOHPUR BENCH, JOHPUR

Date of order: 14.11.1995

O.A.No.422/95

KRISHNA KUMAR

... APPLICANT

VS.

UNION OF INDIA & ORS.

... RESPONDENTS

—
Mr. N.M.Lodha, Advocate, counsel for the applicant.
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COMAM

HON'BLE MS.USHA SEN, ADMINISTRATIVE MEMBER

HON'BLE MR.RATTAN PRAKASH, JUDICIAL MEMBER

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PER HON'BLE MS.USHA SEN :

Heard Shri N.M.Lodha, learned counsel for the applicant.

The applicant was promoted as Assistant Loco Foreman ("ALF" for short) in the year 1981 after passing necessary test.

On account of this promotion the respondent No.5, namely, Shri S.U.Qureshi, who was working as ALF was reverted to his substantive post of Chargeman 'A'. Though the pay scale of both these posts, namely, ALF and Chargeman 'A', is the same i.e. Rs.550-750, but for promotion to the post of Loco Foreman ("LF" for short), the Chargeman 'A' are required to be first promoted as ALF. Despite the applicant's earlier promotion as ALF he has been considered as junior to Shri Qureshi on account of the earlier entry of Shri Qureshi in the grade

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~~of~~ ~~Chargeman~~ ~~'A'~~ (Rs. 550-750) ~~Annex~~ Shri Qureshi was given promotion as LF w.e.f. 1.1.1984 whereas the applicant was to that grade given promotion/w.e.f. 6.10.87 as per Annex.A-6. The applicant submits that the General Manager, Northern Railway, had issued a letter dated 27.5.1991 (Annex.A-7), in which it was mentioned that in respect of those LF whose date of promotion ^{as LF} was identical, namely, 1.1.1984, the inter se seniority shall be determined not on the basis of date of promotion to the category of Chargeman in the grade of Rs.550-750 but ~~on the basis~~ of promotion as ALF in the same pay scale of Rs.550-750. This letter specifically states that in all such cases date of promotion as ALF in the grade of Rs.550-750 on regular basis may be taken as the basis for determining seniority. On the basis of this letter the applicant made a representation to the respondents that he should be ^{the said} considered as senior to Shri Qureshi and respondent No.6, namely, Shri Shyam Lal, for the purposes of promotion to the grade of LF. In reply to this representation the Divisional Railway Manager, Northern Railway, Jodhpur issued a letter dated 16.11.1994 (Annex.A-1), stating that the said letter of the Headquarters, Northern Railway, dated 27.5.1991 is applicable only in cases of those whose date of promotion as LF was identical i.e. 1.1.1984 ; ^{since} ~~the~~ applicant was promoted as LF w.e.f. 6.10.1987 the said letter of the Headquarters, Northern Railway, does not apply to his case.

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3. We find that while it is absolutely correct that the said letter of 27.5.1991 is directly applicable only to the cases of those LF whose date of promotion in that grade was 1.1.1984, there is a principle enunciated in this letter. This principle is that during the period when Chargeman in the grade of Rs.550-750 were required to appear for ^aselection for promotion as ALF the inter se seniority of Chargeman 'A' and ALF cannot be determined on the basis of entry in the grade of Rs.550-750 as Chargeman 'A' but should be determined on the basis of promotion as ALF in the same grade of Rs. 550-750. There is nothing on record to show that this principle should not form the basis of determining the inter se seniority of Chargeman 'A' and ALF in the grade of Rs.550-750. Since the applicant had been promoted as ALF in the year 1981 when Shri Qureshi was only a Chargeman 'A' there is, prima facie, force in the contention of the applicant that he should be ranked senior to Shri Qureshi for all subsequent promotions. It is only because the applicant has been ranked junior to ~~the~~ Shri Qureshi because of the earlier entry of Shri Qureshi in the grade of Chargeman Rs.550-750 that he has been superseded by Shri Qureshi for promotion as LF w.e.f. 1.1.84. The applicant has mentioned in his representation dated 16.1.1992 (Annex.A-8), that a seniority list was circulated on 1.7.1988 in which he was shown below Shri Qureshi. The

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applicant had filed a representation against this change in seniority vis-a-vis his position in the earlier seniority list circulated on 31.3.1983 but his representation was rejected on the grounds that the date of promotion as Chargeman in the scale Rs.550-750 would be the basis for deciding the inter se seniority of Chargeman and ALF.

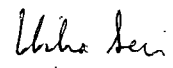
4. We find that there is an express admission in the letter dated 27.5.1991 of the Headquarters, Northern Railway, that ALF should be ranked senior to Chargeman 'A' during the period when ALF was a promotion post from that of Chargeman. *As stated earlier,*
Even though this letter is specifically applicable only to a particular category, namely, those who were promoted as LF on 1.1.1984, this is an admitted principle which apparently should determine the inter se seniority of Chargeman 'A' and ALF even for the purposes of promotion as LF and not merely for determining the inter se seniority of those who have already been promoted as LF on 1.1.1984.

5. In the facts and circumstances of the case we hereby direct the respondents that they shall reconsider the seniority list of Chargeman 'A'/ALF (Grade Rs.550-750) on the basis of this *mentioned above* principle which they have themselves acknowledged in the said letter of 27.5.1991 and make the required changes as per ~~this~~ *their* reconsideration. All promotions made to the grade of LF shall consequently be revised in accordance with this revised seniority list of Chargeman 'A'/ALF based on the *reconsideration of the application of the* principle which the respondents themselves deem to be the just and fair principle for determining the inter se seniority of Chargeman 'A'/ALF as expressed in the said letter of 27.5.1991. In case the

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respondents feel that this principle will not be applied for determining the seniority of Chargeman/ALF for the purposes of promotion as ^{LF} ~~ALF~~ despite their own admission in the said letter of 27.5.1991 that ALF should rank senior to Chargeman 'A' then they should inform the applicant through a speaking order clearly giving the reasons why this principle is being ignored for determining the inter se seniority of Chargeman/ALF when it is being adopted for determining the inter se seniority of LF who were promoted on the same date viz. 1.1.1984. The respondents shall review the seniority list as aforesaid and give a reply to the applicant within a period of three months from the date of receipt of a copy of this order. A copy of the OA may be sent to each of the respondents alongwith a copy of this order. With this direction, the OA is disposed of at the stage of admission.


(RATTAN PRAKASH)
Judl.Member


(USHA SEN)
Adm.Member

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