

I/c (9)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

\* \* \*

Date of Decision: 10.10.96

OA 18/95

Amar Chand, Head Clerk, Engineering Branch, Northern Railway, Jodhpur.

... Applicant

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur.
3. Divisional Personnel Officer, Northern Railway, Jodhpur.
4. Shri Kamlapati, Assistant Superintendent, Engineering Department, Northern Railway Sujangarh.
5. Shri Hanumanlal, Assistant Superintendent, Northern Railway, Makrana.
6. Shri Hansraj Puri (SC), Assistant Superintendent, Northern Railway, P.W.I., Jalore.
7. Shri Prahlad Kumar (ST), Assistant Superintendent, c/o Divisional Superintendent (Engineering Branch), Northern Railway, Jodhpur.

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.S.P.BISWAS, ADMINISTRATIVE MEMBER

For the Applicant

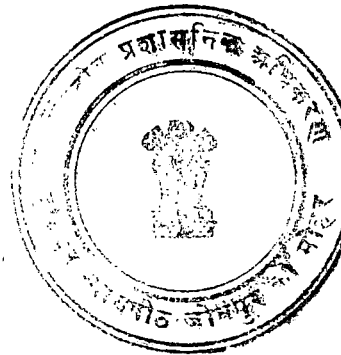
... Mr.P.K.Lohra

For Respondents No.1 to 3

... Mr.R.K.Soni

For respondents No.4 to 7

... None



O R D E R

PER HON'BLE MR.S.P.BISWAS, ADMINISTRATIVE MEMBER

Applicant, Amar Chand, is presently working as Head Clerk in the Engineering Branch of the Northern Railway at Jodhpur. He is aggrieved because of not having been considered for promotion to the post of Assistant Superintendent in grade Rs.1600-2660. It is his further grievance that respondents no.4, 5, 6 and 7, who are at Sl.Nos.38, 39, 45 and 52 respectively in the seniority list dated 24.5.83, and junior to him, have been benefitted with promotions to the above scale. The applicant also claims to have an unblemished service record as his performance was always appreciated and he was never found to be wanting in any manner and that being so he had a better and preferential claim of promotion over respondents no.4 to 7. The applicant would further submit that the Railway Board, vide its letter No.E/NG-I-92/CR/3 dated 1.3.93, has clarified that the employees who were having 'Average' Confidential Reports should not be denied promotions on account of restructuring. In other words, a promotion which is due to

restructuring, cannot by itself be denied on account of the Confidential Reports having been graded as 'Average'.

2. The respondents have stated in their reply that in order to fill-up the 10 posts of OS-II in cadre restructuring by way of modified selection procedure, selection was conducted on 17.12.93 and 28.3.94. In the said selection, the candidature of the applicant was also considered but the Committee did not find him suitable. The non-selection of the applicant, as contended by the respondents, was on the basis of the over all assessment of the Confidential Reports.

3. Heard the learned counsel for both the parties.

4. The procedure laid down for promotion of employees against upgraded post on account of restructuring, as stipulated in the Railway Board's letter No.E(NG)I-92/CR/3 dated 8.10.93, may be extracted as follows :-

"It has been brought to the notice of the board that on some of the Rlys. employees who have been graded as Average in their confidential Reports are not being considered for promotion against the vacancies arising out of restructuring of cadres ordered vide Bds letter No.PC-III/91/CRC/1 dt.27.1.93 only on account of their average reports.

2. In this connection your attention is invited to Bds letter No.E(NG)I-92/CR/3 dt.1.3.93 where it has already been clarified that average report in itself does not mean unfit for promotion. Accordingly, it is clarified that employees who are graded average in CR should not be denied the benefits of restructuring only on account of their average reports."

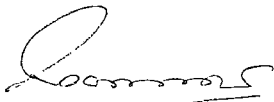
The prime consideration in the above circular is that the average report in itself does not make one unfit for promotion.

5. We have perused the records of the applicant vis-a-vis the private respondents. It has been found that the applicant herein is having only one report graded as 'Average' out of the gradations for last five years. In the case of other years he has been found to be discharging the responsibilities satisfactorily and have been graded above 'Average'. The reports indicated in the case of respondents no.4 to 7 have also been checked up as matter of comparison and it has been found that the applicant's working reports, as evidenced in the Confidential Reports, qualifies him for promotion arising out of restructuring. The learned counsel for the respondents conceded that the instant case deserves consideration for promotion by the Selection Committee on the basis of the

records available w.e.f. the date the applicant's juniors have been promoted in the grade Rs.1600-2660.

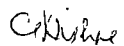
6. In view of the reasons aforementioned, the OA succeeds on merits and is allowed accordingly. We direct the respondents to convene a Selection Committee for reconsideration of the applicant's case for promotion to the post of OS-II grade Rs.1600-2660, in the light of the observations made above, within a period of four months from the date of receipt of a copy of this order and if the applicant is adjudged suitable, he shall be promoted with effect from a date any person junior to him has been promoted to the aforesaid post, with all consequential benefits.

There shall be no order as to costs.



(S.P.BISWAS)  
ADMINISTRATIVE MEMBER

VK

  
(GOPAL KRISHNA)  
VICE CHAIRMAN