

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 226/1996
T.A. No.

198

DATE OF DECISION 13.1.1999

Bhagwan Singh Yadav Petitioner

Mr. S.K. Malik Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

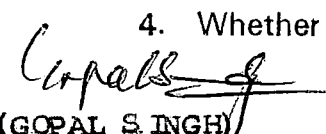
Mr. S.S. Vyas Advocate for the Respondent(s)

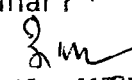
CORAM :

The Hon'ble Mr. A.K. Misra, Judl. Member

The Hon'ble Mr. Gopal Singh, Adm. Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? +
2. To be referred to the Reporter or not ? **Yes**
3. Whether their Lordships wish to see the fair copy of the Judgement ? +
4. Whether it needs to be circulated to other Benches of the Tribunal ? +


(GOPAL SINGH)
Adm. Member


(A.K. MISRA)
Judl. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

O.A. No. :226/1996

Date of Order : 13th Jan 1999

Bhagwan Singh Yadav S/o Shri Inderraj Singh Yadav, By caste Yadav, aged about 56 years, R/o Railway Quarter No. L-2-D Railway Colony, Bhagat Ki Kothi, Jodhpur, Presently serving as Deputy Chief Yard Master, in the office of Station Superintendant, Bhagat Ki Kothi, Jodhpur (Rajasthan).

...Applicant.

Versus

1. Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Jodhpur.
3. The Divisional Personnel Officer, Northern Railway, Jodhpur.

..Respondents.

Mr. S.K. Malik, counsel for the applicant.

Mr. S.S. Vyas, counsel for the respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. GOPAL SINGH :



Applicant, Bhagwan Singh Yadav, has filed this application under section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 25.6.1996 at Annexure A/1 and order dated 23.5.1996 at Annexure A/2 and also for issuing a direction to the respondents to allow the applicant to appear for the selection to the post of Station Superintendent grade 2375-3500 and if declared qualified be promoted on the post of Station Superintendent with all consequential benefits.

2. Applicant's case is that after due selection by the Railway Service Commission, Allahabad, the applicant was appointed as Assistant Station Master (ASM, for short) with effect from 18.01.1962, promoted as Station Master grade 1400-2300 with effect from 28.8.1989 and, thereafter,

Gopal Singh

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granted grade of 1600-2660 as Station Master with effect from 26.11.1991. Consequent upon selection held in August, 1991, the applicant was promoted and posted as Deputy Chief Yard Master in the grade 2000-3200 vide respondents order dated 09.2.1994 (Annexure A/4). Further, due to up-gradation, the promotion of the applicant as Deputy Chief Yard Master was advanced to 01.3.1993 vide respondents' letter dated 17.5.1995 (Annexure A/5). It is the contention of the applicant that the category of Station Master/Traffic Inspector/Chief Yard Master belonged to the same class and their promotions to the higher grades were being made on the basis of combined seniority list through a combined selection. Any person whoever qualifies in the selection could be posted as SM/TI/CYM as per position of the vacancies and no option was taken by the respondents to join either of the posts. In the combined seniority list, the name of the applicant figured on serial no. 238 and in the selection held by the respondents in the year 1995, the applicant was not called whereas his juniors were called for the selection. The applicant has made several representations to the authorities but to no avail. Feeling aggrieved, the applicant has approached this Tribunal.



3. By way of an interim ~~order~~ dated 19.7.1996, the applicant was allowed to appear in the selection test provisionally either on 20th or 27th July, 1996. It was also mentioned that the result of the said selection shall be kept in a sealed cover and shall be subject to the final outcome of this OA.

4. Notices were issued to the respondents and they have contested the application stating inter-alia that consequent upon decentralisation of the cadre in SS/TI/CYM in the grade 2375-3500 with effect from 01.4.1995, it was decided in consultation with the staff unions to conduct selection to the grade of 2375-3500 on stream wise seniority and as such the applicant was not called for the said selection.

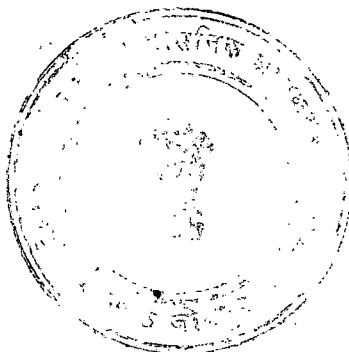
5. We have heard the learned counsel for the parties and perused the records of the case carefully.

Upadhyay

6. The cadre of SS/TI/CYM in the grade 2375-3500 was decentralised at divisional level with effect from 01.4.1995 vide Northern Railway Headquarters letter dated 31.3.1995 (Annexure R/1) and the promotion against the vacancies occurring after 01.4.1994 in the grade of 2375-3500 were left to be made at divisional level. It is seen that Northern Railway Headquarter's letter dated 08.11.1995 (Annexure A/7) provided promotion to the grade of 2375-3500 on the basis of combined seniority list as was the practice earlier. Again, vide Northern Railway Headquarters letter dated 14.5.1996, promotion to the grade of 2375-3500 were ordered to be made on the basis of stream wise seniority. This letter dated 14.5.1996 was never circulated by the respondents. Staff Union, however, circulated this letter amongst their subordinate formations. Again, Northern Railway Headquarters issued a letter dated 07.8.1996 (Annexure R/13) ^{which} provided for promotion to the grade of 2375-3500 on the stream wise basis. It was also mentioned that the said order would be effective from the date of its issue i.e. 7.8.1996. It was also mentioned in that letter dated 7.8.1996, that the selection of SS/TI/CYM grade 2375-3500 (RPS) which was already initiated and are in progress, should be conducted as per the existing AVC i.e. on combined seniority basis to avoid any complications. The respondents had initiated selection for the grade of 2375-3500 vide their letter datted 23.8.1995 (Annexure R/2) on combined seniority basis, result of which was declared on 30.4.1996 and promotion orders were issued on 16.5.1996. It may also be mentioned that in terms of respondents' letter dated 31.3.1995 (Annexure R/1), number of posts in the grade of 2375-3500 category wise were - Station Superintendent - 18, Traffic Inspector - 3, Chief Yard Master - 1.

7. It would be seen from the above that though instructions were issued by the Northern Railway Headquarters letter dated 14.5.1996 that stream wise selection would be made to the post of grade 2375-3500, the respondents continued to make promotions on the basis of combined seniority list. Further, respondents letter dated 8.11.1995 (Annexure A/7), provided continuance of the practice or promotion on the basis of combined seniority.

Upal Singh




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Thus, it was not clear as to from which date the new procedure for promotion to the grade of 2375-3500 on the basis of stream wise seniority was to be effective. It was only clarified vide Northern Railway Headquarter letter dated 07.8.1996 that the new procedure for promotion to the grade of 2375-3500 on stream wise basis would be effective from 07.8.1996 and, further that selections already initiated should be conducted on the basis of combined seniority list. Thus, in effect all the posts in the grade of 2375-3500 occurring up to 07.8.1996 were required to be filled up on the basis of combined seniority list. Stream wise promotion to the grade of 2375-3500 would be applicable only to the vacancies occurring after 7.8.1996. Further, it may be mentioned that introduction of promotion on stream wise basis was implemented without calling for options from the affected employees. The right course of action should have been to call for options from all the employees in these 3 categories of SS/TI/CYM to opt for any of the streams and, thereafter, only introduce the new scheme of promotion on stream wise basis. This has definitely not been done by the respondents.

8. In the light of above discussions, we find that application has much strength and deserves to be allowed.

9. The O.A. is, accordingly, allowed with the direction to the respondents that selection to the vacancies occurring between 01.4.1995 to 07.8.1996 should be made on the basis of combined seniority. Since the selection test in which the applicant was provisionally allowed to appear was initiated before this cut off date of 07.8.1996, the applicant if declared successful in the said selection would be entitled to promotion and other benefits at par with other successful candidates on the basis of combined seniority.

The parties are left to bear their own costs.


Gopal Singh
 (GOPAL SINGH)
 MEMBER (A)

A.K. Misra
 13/11/99
 (A.K. MISRA)
 MEMBER (J)

He ~~Ad~~
18/1/99

Recd
A.
18.1.99