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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 26.9.2000.

O.A. No. 376/1996

L.C. Agarwal, aged about 58 years, S/O Shri M. Rai, R/O Block No.1, Railway Colony, Opposite Nawa Railway Station, Nawa City, District Nagaur. Official address : Retired PWI-Construction, Nawa City.

... Applicant

Vs

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Rail Manager, Northern Railway, New Delhi.
3. The Chief Administrative Officer, (Construction) Kashmiri Gate, New Delhi.
4. The Deputy Chief Engineer, Construction II, Northern Railway, Jodhpur.

... Respondents

Mr. Y.K. Sharma, Counsel for the Applicant.

Mr. V.D. 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 L.C. Agarwal has prayed for as under :

- 8.1 the respondents may be directed to grant the promotion as CPWI from the date applicant became due for the same with real benefits alongwith interest, from that date.
- 8.2 the respondents may kindly be directed to compensate the applicant for arbitrarily

Gopal Singh

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withholding the First ad hoc promotion as CPWI and also for withholding the promotion of CPWI after the selection.

8.3 the respondent may kindly be directed to grant the real benefit in furtherance of grant of ad hoc promotion by competent authority dated 3.6.94, for post of CPWI.

8.4 the respondent may be directed to conduct a separate selection for the post of A.En. and to grant all the consequential benefits from the date person junior to applicant were given benefit and also compensation for this may also be adequately awarded."



2. Applicant's case is that the applicant was promoted as Permanent Way Inspector ('PWI' for short) scale Rs.2000-3200 vide respondents' letter dated 02.7.1993 (Annexure A/3) consequent upon furnishing the No.DAR/SPE/Vigilance case certificate by the construction organization to the Divisional Personnel Officer, New Delhi Division of Northern Railway. This promotion was allowed on proforma basis with effect from 10.2.1989 from the date of promotion of his junior, vide respondents' letter dated 05.6.'96 (Annexure A/6). In terms of respondents' letter dated 13.8.'96, the applicant was to be allowed promotion as Chief PWI scale Rs.2375-3500 w.e.f. 5.4.91 at par with his junior Ved Prakash provided there was no DAR/SPE/Vigilance case pending against him. This promotion was not extended to the applicant and thereafter he was deprived of the selection to the post of Assistant Engineer. It is the contention of the applicant that no DAR/SPE/Vigilance case was pending against him and the action of the respondent in not according him promotion to the post of CPWI and further disentitling him for appearing in the selection for the post of Assistant Engineer was illegal and amounted to victimization of the applicant. It has further been contended by the applicant that after the clearance given on 25.5.1993, by the authorities, all adverse material prior to that date got

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washed away and no further disciplinary case was instituted against him after that date and, therefore, withholding of clearance by the respondents was arbitrary and violative of principles of fair play. Feeling aggrieved, the applicant has filed this O.A.

3. In the counter, respondents have submitted that there were six disciplinary cases pending against the applicant when the clearance certificate was demanded for the promotion to the post of CPWI. The applicant was subsequently issued major penalty chargesheet on 25.9.'96. In these circumstances, clearance certificate was not given in favour of applicant and accordingly he was not extended the benefit of promotion to the post of CPWI. Since he was not promoted to the post of CPWI because of many chargesheets pending against him, the question of allowing the applicant to appear in the selection for the post of Assistant Engineer did not arise. It has, therefore, been submitted by the respondents that the application is devoid of any merit and deserves dismissal.

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

5. Existence of the chargesheets as mentioned in paragraph 3 above has not been denied by the applicant. Moreover, it has been stated by the respondents that clearance given earlier on 25.5.'93 was by mistake and the applicant has already been given promotion to the scale of Rs.2000-3200 on the basis of that clearance. Further clearance has rightly been withheld by the respondents due to pendency of many chargesheets against the applicant. At this stage, we consider it appropriate to extract relevant portion of the reply of the respondents as under ;

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"The pending D&AR cases against the applicant at that time are tabulated as under :

S1. No.	Type of charge sheet	Date issued	Office of issue	Remarks :
1.	SF-11	22.12.91	Dy. Chief Engr/ Const. Bikaner	Not replied by applicant till date.
2.	SF-11	18.3.92	-do-	Replied on 10.6.92 endorse to Dy.CE/C Bikaner on 28.6.92 but not finalised.
3.	SF-11	12.4.93	Asstt. Engr/Const/ GC/Delhi Cantt.	Not replied till date.
4.	SF-11	10/13/7/92	Dy. Chief Engineer/ Constn. N.Rly., Bikaner	Replied on 13.9.94 but not finalised.
5.	Minor	23.5.94	Dy. Chief Engr./ C-II. N. Rly., Jodhpur.	Replied on 11.9.94, not finalised till date.
6.	Minor	30.8.94	-do-	Replied on 12.9.94, not finalised till date



Besides, the above chargesheets, there were many cases under correspondence of non-completion of his charge store statements and handing over of records at previous stations of postings, which warranted the taking up of action against him under disciplinary proceedings including major penalty chargesheets against the applicant. The applicant was subsequently issued two major penalty chargesheets in SF-5 under letter No.1-E/DY.CE/E.II/JU/LCA/SF5/0201 dated 25.9.96, copy of which an enclosed and marked as Annexure R-1 R-1A which the applicant refused to accept on 27.9.96 and 28.9.96 for which letter Annexure R-2 was again sent on 11.10.96."

6. In the light of above discussion, we do not find any merit in this application and the same deserves to be dismissed

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

Gopal Singh
(GOPAL SINGH)
Adm. Member

B.S. Raikote
(B.S. RAIKOTE)
Vice Chairman

4/22/20

Recd 6/27

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Part II and III destroyed
in the fire on ()
after the submission of
the report as per
order dated 10/11/54

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Section Editor