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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 05.10.2000

O.A. No. 141/1996

Kishan Lal Khatik S/O Shri Mani Ram, aged about 49 years, R/O 42-D, Rana Pratapnagar, Railway Colony, Udaipur, at present employed on the post of Chief Booking Supervisor at Ranapratapnagar Railway Station, Western Railway.

... Applicant

Vs

1. Union of India through the General Manager, Western Railway, Chrchgate, Bombay.
2. The Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.
3. Shri Chuni Lal, Chief Booking Clerk Ajmer Division, Western Railway, Ajmer.
4. Shri S.N. Srivastava, Chief Booking Clerk, Ranapratapnagar, Western Railway.

... Respondents

Mr. J.K. Kaushik, Counsel for the Applicant.

Mr. S.S. Vyas, Counsel for the Respondents No. 1 & 2

None is present for respondent No.4.

CO RAM :

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)

Applicant, Kishan Lal Khatik, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to modify the impugned selection panel dated 9.4.'96 (Annex.A/1) by interpolating his name on the selection panel in the

Gopal Singh

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light of Railway Board Circular dated 19.3.76, and promote the applicant to the post of Chief Booking Supervisor scale Rs.2000-3200 with all consequential benefits.

2. Applicant's case is that he was initially appointed as Commercial Clerk on 18.2.'72 by the respondent-department and he is presently holding the post of Chief Booking Clerk scale Rs.2000-3200. He was also promoted as Chief Booking Supervisor on ad hoc basis vide respondents' letter dated 8/12.12.'94 (Annexure A/3). However, when regular selection for the post of Chief Booking Supervisor was held, his name was not empanelled for the post. Contention of the applicant is that his service record is quite satisfactory and moreover, he is working on the post on ad hoc basis, therefore, he should have been empanelled for the post of Chief Booking Supervisor in terms of Railway Board Circular dated 19.3.76.

3. In the counter, respondents have stated that the departmental promotion Committee did not find the applicant as fit for regular promotion to the post of Chief Booking Supervisor on the basis of his service record. It has further been stated by the respondents that the Railway Board Circular dated 19.3.'76 is only in the nature of guideline and not mandatory. As such the applicant cannot claim any benefit out of that Circular.

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

5. The contention of the applicant that he has been found fit for ad hoc promotion on the basis of same service records which has been seen for regular promotion and, therefore, he should not have been declared unfit for regular promotion is not tenable as the criteria fixed for ad hoc

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promotion is entirely different than the criteria fixed for regular promotion. Moreover, the applicant has not alleged any mala fide against the departmental promotion committee. The applicant has also contended that since he is holding the post on ad hoc basis, he should have been extended the benefit of Railway Board Circular dated 19.3.'76. In this connection, we consider it appropriate to extract below Circular dated 19.3.'76 as reproduced at page 4 of the O.A.

* Sub ; Record Note of the meeting of the Dy. Minister for Railways and the Railway Board with the Headquarters of the personnel Deptt., of the Railway Administration held in New Delhi on 27.11.75. A copy of an extract from the record Note circulated vide Board's letter No.75-3 (SCT 15 /48 dated 9.12.1975 as received vide their office letter dated 25.1.'76 is reproduced below :



2.2 The panels should be formed for selection posts in time to avoid ad hoc promotions. Care should be taken to seek while forming panels that employees who have been working in the posts on ad hoc basis quite satisfactorily are not declared unsuitable in the interview. In particular any employee reaching the field of consideration should be saved from harassment."

The Circular provides that employees who have been working in the post on ad hoc basis quite satisfactorily are not declared unsuitable in the interview and in particular, any employee reaching the field of consideration should be saved from harassment. We have gone through the service record of the applicant produced before us by the respondents in terms of our interim order dated 2.8.2000. A perusal of record reveals that the applicant has not been extended the benefit of Circular dated 19.3.'76.

6. The controversy had also come up before Hon'ble the Supreme Court in Civil Appeal arising out of SLP (C) No.9866 of 1993, wherein it was held that the applicant therein was entitled to the benefit of the directions contained in the Circular dated 19.3.1976 and accordingly it was declared that

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on 10/17
[Signature]

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①
11/10/12

Part II and III destroyed
in my presence on 11/12/07
under the supervision of
section officer (1) as per
order dated 10/17/07

[Signature]
Section officer (Records)