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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.


O.A. No. : 355/1997

Date of Order : 9.9.1999

Avinash Kant Gaur S/o Shri Krishna Kant Gaur, Aged about 37 years, Resident of 14, Sanghi Das Thanvi Building, Mahatma Gandhi Hospital Road, Jodhpur, at present posted as Section Officer (Accounts), office of Divisional Accounts Officer, Northern Railway, Bikaner.

..Applicant.

Versus

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1. Union of India through Secretary Railway Board, Rail Bhawan, Raisina Road, New Delhi.
 2. The General Manager, Northern Railway Headquarters Office, Baroda House, New Delhi.
 3. The Financial Advisor & Chief Accounts Officer, Northern Railway Headquarters Office, Baroda House, New Delhi.
 4. The Divisional Accounts Officer, Northern Railway, Bikaner.
 5. The Divisional Accounts Officer, Northern Railway Jodhpur.
 6. The Work Shop Accounts Officer, Northern Railway, Jodhpur.
 7. Shri Devi Lal, Accounts Assistant, Work Shop Accounts Office, Northern Railway, Jodhpur.
 8. Shri Shambhu Singh Sodha, Section Officer, Northern Railway through Financial Advisor & Chief Accounts Officer, Headquarters Office, Baroda House, New Delhi.

..Respondents.

Mr. K.K. Sharma, counsel for the applicant.

Mr. V.D. Vyas, counsel for respondents No. 1 to 6.

None present for respondents No. 7 and 8.

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CORAM :

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

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. GOPAL SINGH :

Applicant, Avinash Kant Gaur, has filed this application under section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 06.8.1997 at Annexure A/1 and for issuing directions to the respondents not to affect any recovery on account of alleged over payment made to the applicant in terms of order dated 12.6.1997.

2. Applicant's case is that he was initially appointed on the post of Khalasi with the respondents department and, thereafter, he was selected for the post of Clark Grade I through Railway Recruitment Board in the year 1985-87. The applicant continued to function as such in the office of Assistant Accounts Officer, Traffic Accounts, Jodhpur up to 25th May, 1988 and, thereafter, he sought transfer from Traffic Accounts Office to the Divisional Accounts Office alongwith respondents No. 7 and 8. The applicant and respondents No. 7 and 8 were transferred to the office of Works Accounts Office, Jodhpur on 25.5.1988. It is the contention of the applicant that he was senior to respondents No. 7 and 8. He was given adhoc promotion to the post of Accounts Assistant on 10.8.1990 whereas respondents No. 7 and 8 were given promotion as Accounts Assistant on 25.5.1988. The applicant's case for stepping up of his pay with reference to respondent No. 7 and 8 was considered by the respondent department and the pay of the applicant was brought at par with that of the pay of respondents No. 7 and 8 vide respondents order dated 12.6.1997. It was later detected by the respondents that the applicant was not entitled to stepping up of his pay with respect to respondents No. 7 and 8 and, therefore, issued orders for recovery of the over paid amount to the applicant vide orders dated 06.8.1997 (Annexure A/1). Feeling aggrieved, the applicant has approached this Tribunal.

Gopal Singh



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3. Notices were issued to the respondents and they have filed their reply. In their reply, the respondents have contended that respondents No. 7 and 8 were fulfilling the eligibility condition for promotion to the post of Accounts Assistants in as much as they had rendered three years' qualifying service as also had passed Appendix II (A) Examination whereas the applicant had not completed 3 years of continuous service as Clerk grade I to be eligible for promotion to the post of Accounts Assistant, when respondents No. 7 and 8 were promoted as such.

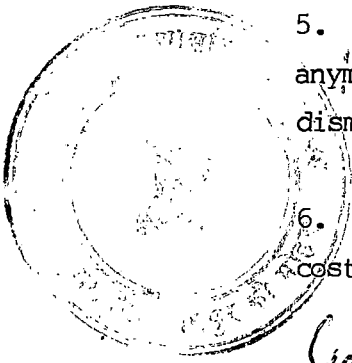
4. Since respondents No. 7 and 8 were given adhoc promotion from a date earlier than the promotion of the applicant on adhoc basis they had the benefit of drawing higher pay at and from the date of their regular promotion than the applicant. It may be mentioned that the applicant was promoted on adhoc basis on 10.8.1990 whereas respondents No. 7 and 8 were promoted on adhoc basis on 25.5.1988. The applicant alongwith respondents No. 7 and 8 were given regular promotion from 28.01.1991. The contention of the applicant that he being senior, respondents No 7 and 8 should not be allowed higher pay than him. It has also been pointed out that the respondent No. 7 and 8 were given adhoc promotion with effect from 25.5.1988 as they were eligible for promotion to the post of Accounts Assistant whereas on that date the applicant was not even eligible for consideration for promotion. The benefit of stepping up given to the applicant with reference to respondents No. 7 and 8 was not called for but because of the persistent representation on the part of the applicant, the benefit was extended to him by mistake and this mistake is sought to be corrected by the respondents vide their letter dated 6.8.1997 (Annexure A/1). This controversy had come up before us earlier in OAs No. 293/1995, 294/1995, 311/1995 and 194/1996. All the above mentioned applications were rejected and it was held that the applicants therein were not entitled to stepping up of their pay with reference to their juniors who had been appointed to the post of Accounts Assistant earlier than the applicants because of their fulfilling the eligibility conditions.

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5. In the light of above discusson, we do not find anymerit in this application and the same deserves to be dismissed.

6. The OA is accordingly dismissed with no orders as to costs.


Gopal Singh
(GOPAL SINGH)
MEMBER (A)

9.9.99
A.K. Misra
(A.K. MISRA)
MEMBER (J)