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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 19.5.2000.

O.A. No.273/1998

Lala Ram S/O Shri Sukhdeo by caste Brahmin, aged about 64 years, Retired Head Clerk, Mechanical Branch, DRM Office, Northern Railway, Bikaner. Presently residing at Kothari Sadan, Rani Bazar, Bikaner.

... Applicant

Vs

1. The Union of India through General Manager, Northern Railway, Baroda House, Headquarter Office, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Bikaner.
3. The Senior Divisional Personnel Officer, Northern Railway, Bikaner.

... Respondents

Mr. S.N. Trivedi, Counsel for the Applicant.

Mr. R.K. Soni, 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)

Applicant, Lala Ram, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 09.12.97 (Annexure A/1) qua the applicant and for a direction to the respondents to extend to the applicant the benefit of pay

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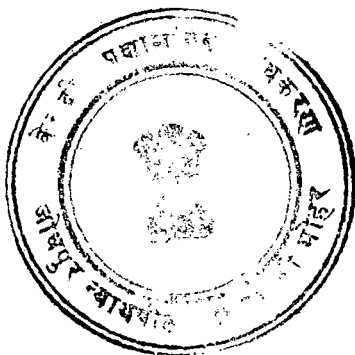
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fixation in the cadre of Head Clerk scale 425-700/1400-2300 with effect from 01.1.1984 with all consequential benefits. The applicant has also prayed for payment of arrears of pay fixation with interest.

2. The applicant had earlier approached this Tribunal vide O.A. No.460/1991, seeking directions to the respondents not to provide reservation of Scheduled Castes/Scheduled Tribes employees on additional upgraded posts as a result of cadre restructuring w.e.f. 01.1.1984. The said O.A. was decided on 09.5.1996 with the following observations :

" 14. Consequently, for all that has been said and discussed above, while holding that the policy of reservation is not applicable in the upgraded posts; even on partial basis after restructuring of the cadres, the issue raised in these O.As. is answered in the negative.

15. Accordingly, while allowing these O.As. the impugned orders are at Annex.A/1 dated 10.10.91 in O.A. No.460/91 Annex.A/1 dt. 12.1.94, Annex.A/2 dt. 10.1.86, Annex.A/3 dt. 4.8.87 and Annex. A/4 dt. 31.7.92 in O.A. No.115/94, and Annex. A/1 dt. 22.2.93 Annex. A/2 dt. 10.1.96 and Annex. A/3 dt. 4.6.87 in O.A. No.116/94, are hereby quashed. The respondents are directed to consider the applicants in the respective O.As. for being put against the upgraded posts in their respective cadre in accordance with the rules of seniority subject to the rejection of unfit and no reservation will be applicable in the posts in question. It is further directed that all private respondents wrongly promoted would stand reverted but no recoveries shall be made from them for overpayments made during the period they officiated/worked. The applicants would be further provided proforma fixation with effect from the dates they would have been actually promoted. It is also made clear that the applicants would not be entitled to any arrears on this account. The applications are disposed of accordingly with no order as to costs. A copy each of this order be placed in the respective case files."



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(B)

3. Consequently, the respondents reverted 05 employees belonging to SC/ST and promoted 05 general category candidates in their place. The last person covered from general category was Shri Samsuddin. It is the contention of the applicant that he was very much within the Zone of consideration and should have been promoted as Head Clerk w.e.f. 01.1.1984 under the restructuring scheme. Feeling aggrieved, the applicant has filed this O.A.

4. Notices were issued to the respondents and in counter, it has been stated by them that the applicant was not within the Zone of consideration and as such he could not be promoted as Head Clerk w.e.f. 01.1.1984.

5. We have heard the learned Counsel for the parties, and perused the records carefully.

6. It is seen from records that in terms of cadre restructuring scheme 47 posts of Head Clerk were upgraded to the scale 415-700 and 14 more posts were available as resultant vacancy. Thus, there were 61 posts to be filled up under the cadre restructuring scheme from 01.1.1984. The respondents in their letter dated 03.10.1985, had promoted in all 57 employees, five of whom belonging to SC/ST categories were reverted in terms of this Tribunal's order mentioned above. Thus, only 52 persons were promoted under this scheme. Shri Gulam-Qadir (seniority No.60) and Shri Shiv Kumar (seniority No.65) though senior to already promoted persons, but promoted subsequently were given the benefit w.e.f. 01.1.1984. In promoting all these persons seniority list upto Serial No.111 was operated. Thus, there were 09 (61-52) more posts available for being filled up under the scheme. The seniority position of various employees after S. No.111 eligible for promotion under the scheme is as under :

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Sl.No.	Seniority No.	Name	Remarks
(1)	.. 112	Banwari Lal	..
(2)	.. 113	Gulam Nabi	..
(3)	.. 114	Dharam Pal	.. Already promoted
(4)	.. 115	Fateh Singh	..
(5)	.. 116	Tilak Raj	..
(6)	.. 117	Samsuddin	.. Already promoted
(7)	.. 118	Shiv Narain	.. Already promoted
(8)	.. 119	Manjoor Ahmed	
(9)	.. 120	Lala Ram (APPLICANT)	

Employees at Sl. No. 3, 6 & 7 were promoted under the directions of the Tribunal. For filling up the remaining six posts, six employees mentioned at Sr. No.1, 2, 4, 5, 8 & 9 are eligible as per the seniority list and, the applicant would be sixth person eligible for promotion.

7. In the light of above analysis, we find that the applicant has a strong case and the application deserves to be allowed. With a view to minimize litigation, we are of the view that employees placed at Sl. No.1, 2, 4, 5 & 8 should also be considered for promotion under the scheme.

8. The O.A. is accordingly allowed with a direction to the respondents to extend the benefit of cadre restructuring w.e.f. 01.1.1984 to the applicant alongwith S/Shri Banwari Lal, Gulam Nabi, Fateh Singh, Tilak Raj and Manjoor Ahmed (if they are otherwise eligible) with all consequential benefits. No costs.

(Gopal Singh)
(GOPAL SINGH)
Adm. Member

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

Hon'ble members A

Lib

Rev. Mr.

Aug 17/5

(S. H. T. M. J. A. 1868)

2/10/5

Aug 17/5

25/5/24
General Secy
Advent

(For 10/5)

Part II and III destroyed
in my presence on 3.8.10-06
under the supervision of
section officer (J) as per
order dated 23.7.10-06

Section officer (Record)