

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

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O.A. No. 314/2001.  
T.A. No.

198

DATE OF DECISION \_\_\_\_\_

Pankaj Mishra \_\_\_\_\_ Petitioner

B. Khan \_\_\_\_\_ Advocate for the Petitioner(s)

Versus

Union of India & Ors. \_\_\_\_\_ Respondent

S. S. Vyas \_\_\_\_\_ Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.

The Hon'ble Mr. G. R. Patwardhan, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
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 ?

(G. R. PATWARDHAN)  
MEMBER (A)

(G. L. GUPTA)  
VICE CHAIRMAN

H/s  
27/13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of Decision : 7.10.03

O.A. No. 314/2001.

Pankaj Mishra son of Shri Ram Sewak Mishra, aged about 37 years, resident of 17/291, Chopasni Housing Board, Jodhpur, at present employed on the post of General Punch Room Supervisor, in Computer Section, Divisional ComputerCell, in the office of DRM Jodhpur, Northern Railway.

... Applicant.

v e r s u s

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

... Respondents.

Mr. B. Khan counsel for the applicant.  
Mr. S. S. Vyas counsel for the respondents.

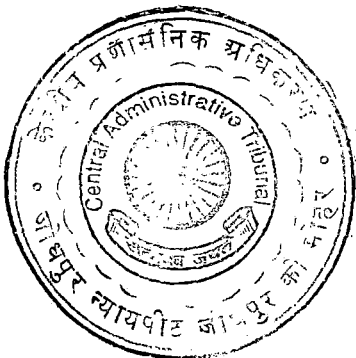
CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.  
Hon'ble Mr. G.R. Patwardhan, Administrative Member.

: O R D E R :  
(per Hon'ble Mr. G. L. Gupta)

The applicant calls in question the orders Annexure A-1 dated 18.12.2000 and Annexure A-2 dated 25.07.2001 whereby his representations for the grant of higher pay scale w.e.f. 01.03.1995 was rejected.

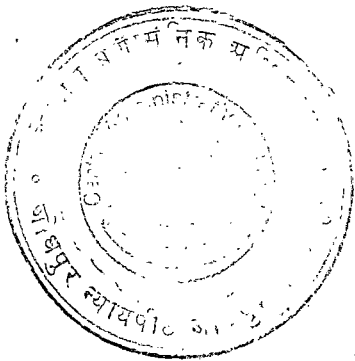
2. The applicant was initially appointed on the post of Data Entry Operator in the pay scale of Rs. 1350-2200 on 12.08.1988. The cadre was reviewed and restructured vide order dated 22.03.1994, which was made effective from 01.03.1993 whereby two posts were kept in the initial grade and one post of Senior Data Entry Operator in the scale of Rs.1400-2300 and one



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post of Punch Room Supervisor in the scale of Rs.1600-2660. As per the scheme of the restructuring, the post of Senior Data Entry Operator is non selection post whereas the post of Punch Room Supervisor is a selection post. It was provided that the first promotion would be given as per the modified procedure, whereas the second promotion would be given after the incumbent clears the selection test. The applicant was given the grade of Senior Data Entry Operator w.e.f. 01.03.1993 vide order dated 03.09.1997. Thereafter he passed the selection test for promotion to the post of Punch Room Supervisor in the year 1998, whereupon he was promoted to the post of Punch Room Supervisor w.e.f. 21.05.1988.



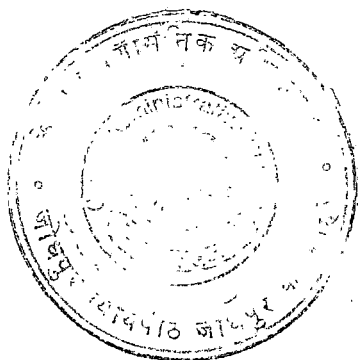
2.1 The say of the applicant is that he had become eligible to get the promotion to the post of Punch Room Supervisor in the year 1995 on completion of 2 years on 01.03.1995 and, therefore, he ought to have been given promotion to the post of Punch Room Supervisor w.e.f. 01.03.1995. He made representations to the respondents but they were rejected.

2.2 Incidentally it may be pointed out that one Shri V. D. Sharma O.S.-II was posted as Punch Room Supervisor vide order dated 31.09.1997 in the scale in which he was already working. The applicant aggrieved of that order approached this Tribunal by filing OA No. 34/1998, claiming that he ought to have

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been given promotion to the post of Punch Room Supervisor instead of Shri V. D.Sharma, The said OA was disposed of vide order dated 11.02.1998 directing the respondents to consider and dispose of the representation of the applicant pending with them. The said representation of the applicant was disposed of by the respondents vide order dated 07/16.04.1998 (Annexure R/7), in which it was intimated to the applicant that the written test had already been conducted on 27.03.1998 and in case he succeeded he would be promoted to the post of Punch Room Supervisor.

3. In the counter, the respondents' case is that soon after the applicant passed the selection test on 08.05.1998 he was promoted to the post of PunchRoom Supervisor w.e.f. 21.05.1998 and under the scheme the applicant did not have a right of promotion to the higher post on completion of 2 years w.e.f. 01.03.1993.



4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. The case of the applicant is to be considered in the light of R.B.E. No. 20/94 (Annexure A/3). The relevant para 6.2 of the Scheme is reproduced hereunder :-

"6.2 This relaxation of time is applicable for the first promotion only, which means if a Railway servant becomes due for two promotions

as a result of cadre restructuring then the first promotion will be given on 01.03.1993 or thereafter subject to completion of one year service in the existing pre-promotion grade and second promotion will be given after completion of normal two years in the first promotion grade. This means that no Railway servant will be entitled to double promotion even if vacancies are available. For second promotion the normal selection procedure will be applied and modified selection procedure will be applicable to the first promotion only."(emphasis supplied).

5.1 It is manifest that one becomes eligible to get the second promotion after completion of two years in the first promotional grade and he is not entitled to double promotion even if the vacancy is available. For second promotion, the normal selection procedure has to be applied and modified selection procedure is applicable to the first promotion only.

6. Admittedly, in terms of the scheme, the applicant got the first promotion from 01.03.1993 vide order dated 03.09.1997. The promotion to the post of Senior Punch Room Supervisor could be claimed only after passing the selection test held for the purpose. The applicant passed the selection test in May 1998 and he was allowed second promotion from 21.05.1998. The respondents, therefore, cannot be said to have faulted when they did not grant him promotion from 01.03.1995.

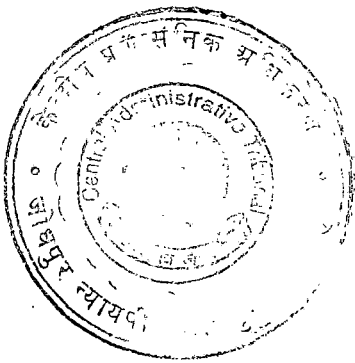
7. Under the scheme the promotion can be given after completion of the normal two years in the first promotional grade but that does not mean that the employee has a right to get the second promotion on



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completion of two years in the first promotional grade. It is only the eligibility criteria that to get the second promotion an employee must complete two years in the first promotional grade. Besides this eligibility, the employee is also required to pass the selection test. It may be that selection test could be held by the respondents earlier to 1998 but merely because delay was caused in holding the selection test, the applicant did not have a right to get the promotion w.e.f. 01.03.1995. The scheme does not provide that promotion to the next grade has to be given on completion of two years period. It is not the case for the applicant that any person junior to the applicant has been given promotion to the higher post between 1995 to 1998.



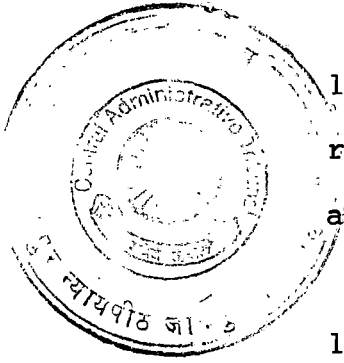
8. It may be pointed out that Shri V. D. Sharma who was asked to hold the charge of the post of Punch Room Supervisor was not granted the benefit of the scale of the post. He worked in his own pay scale. The matter would have been different if Shri V. D. Sharma had been given the benefit of the grade meant for the General Punch Room Supervisor.

9. There is no rule envisaging that an employee has a right of promotion from the date the vacancy exists. It is for the employer to fill up the promotional post or not. The right of consideration to hold the post arises only when a person junior to an employee is given promotion which is not the position here. Mere fulfilling the eligibility

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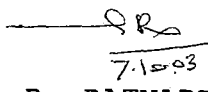
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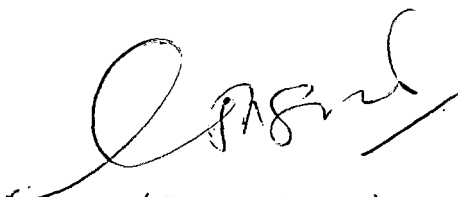
criteria of experience, does not confer a right of promotion in the higher scale.



10. Having considered the documents placed on record we do not find any case in favour of the applicant. The OA is liable to be dismissed.

11. Consequently, we dismiss the OA with no order as to costs.

  
7.10.03  
(G. R. PATWARDHAN)  
MEMBER (A)

  
(G. L. GUPTA)  
VICE CHAIRMAN

R/copy  
on 9/10/03  
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for  
for S. Vyas 10/10/03

Part II and III destroyed  
in my presence on.....  
under the supervision of  
section officer ( ) as per  
order dated .....

Section officer (Record)