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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 110/2009

Date of decision: 24th-8-2011 *Al.*

**CORAM: HON'BLE DR. K.B. SURESH, MEMBER (J) &
HON'BLE MR. SUDHIR KUMAR, MEMBER (A)**

Anil Kumar Ray S/o Shri Ganga Dayal Ray, aged about 48 years, R/o Plot No. 267/20, Rana Tailor Gali, Behind Power House, Gandhi Nagar, Abu Road, District Sirohi (Raj) presently working on the post electric fitter Gr. -III in the office of Sr. Sec. Eng. Diesel Shed. N. W.R. Abu Road, Rajasthan.

..... Applicant

Mr. S.K. Malik, Counsel for the applicant.

Versus

1. The Union of India through the General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, North Western Railway Ajmer Division, Ajmer (Raj)
3. The Divisional Railway Manager, (Estt.) North Western Railway, Ajmer, Division (Raj.)

..... Respondents

Mr. Vinay Jain, counsel for the respondents.

ORDER

Per Dr.K.B.Suresh, Member (Judicial)

Heard both the counsels in detail. This matter appears to be similar to the OA. 104/2009 which was disposed of vide order dated 05-05-2011. The same set of declaration, as has been made in the earlier case, is applicable to this also. Since, on his deployment at Rajkot division, he had earned a promotion not on the basis of seniority, ^{but on competitive} ~~extent~~ merit, earned by him in the Trade Test. Therefore, his seniority has nothing to do with the qualification which he had acquired thereafter. These qualifications which he had acquired, thereafter, will be attached to him. It can not be taken away unless for a rightful decision, he has to be reverted back

K.B. Suresh

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Re. following correct ~~proceedings~~ ^{procedure.} There is no ground as it is for a rightful decision that he has to be reverted; therefore benefit of the promotion which he had earned must stay with him. Since ~~competent~~ ^{competitive} merit is the Re. issue in his rightful employment promotion earned cannot be taken away Re. by extraneous considerations.

2. It appears that as such an issue was raised pursuant to the agreement with the Union and on their prompting. Therefore, Anne.A-1 cannot be supported by test of reasonableness and thus it is held to be Re. arbitrary and illegal. Anne.A-1 order, so far as it relates to the applicant, is hereby quashed, and the amount which had been recovered from the applicant shall be returnable alongwith interest of 6% per annum. He is entitled to come back to Grade II post which he had earned prior to his transfer. Thus, the OA is allowed, with no costs, as above.


(SUDHIR KUMAR)
MEMBER(A)


[DR. K.B. SURESH]
MEMBER (J)

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