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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application 164/2009

Date of Order : 14 February, 2012.

**CORAM : HON'BLE MR. SUDHIR KUMAR, MEMBER (A)
HON'BLE MR. V. AJAY KUAMR, MEMBER (J)**

Jamta Ram S/o Shri Vaja Ram, aged 39 years, Ticket No. 10616, Shop No.4, Technician, Grade II (Milright) Northern Western Railway, Jodhpur, Reg. Old loco L-49 B Ratanada, Jodhpur.

.....Applicant

By Mr. Nitin Trivedi, for applicant.

Versus

1. The Union of India through the General Manager, Northern-Western Railway, Jaipur.
2. The Chief Workshop Manager, Northern-Western Railway, Jodhpur.
3. The Deputy Chief, Mechanical (Personnel), Northern-Western Railway Workshop, Jodhpur.
4. Shri Balu Ram, Ticket No.10641, Shop No.4, Technician, Grade-I (Milright), Northern-Western Railway Workshop, Jodhpur.
5. Shri Om Prakash, Ticket No.10672, Shop No.4, Technician, Grade-I (Milright), Northern-Western Railway Workshop, Jodhpur.

..... Respondents.

**By Mr. Sali Trivedi for Respondents No. 1 to 3.
Mr. S.K.Malik, for Respondents No. 4 and 5.**

**ORDER (ORAL)
PER SUDHIR KUMAR [MEMBER ADMINISTRATIVE]**

Heard both the learned counsel on the merits of the O.A.

2. The learned counsel for the respondents has produced a copy of the order dated 03.01.2012 since passed suo-moto by the Railway respondents, giving the applicant ante-dated proforma promotion to Technician Grade I from 27.06.1998, from the date his immediate junior Shri Balu Ram, Private Respondent No.R/4, had been given the said promotion, under Rule 228 of the Indian Railways' Establishment Manual, Vol.I, 1989 Edition. The learned counsel for the respondents submits that in view of this order, no cause of action for the applicant to agitate the present OA survives, and the OA may therefore be dismissed as having become infructuous.


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3. The learned counsel for the applicant however submits that even though ante-dated proforma promotion has been accorded by the order now produced by the respondents, the case of the applicant for being allowed arrears of salary, atleast from the date of filing of this OA on 23.07.2009, may be considered. However, we have gone through the provisions of Para 228 of the Indian Railway Establishment Manual Vol. I 1989 Edition, in pursuance of which the respondents have suo moto passed the order dated 3.1.2012. The paragraph concerned specifically states that in such cases of correction of seniority earlier accorded, the enhanced pay may be allowed only from the date of actual promotion, and no arrears on this account shall be payable in such cases, as the incumbent did not actually shoulder the duties and responsibilities of the higher post in the meanwhile.

4. In view of the categorical provision in this regard in Para 228 of the Indian Railway Establishment Manual, we are constrained not to allow the prayer made today by the learned counsel for the applicant during arguments. The ante-dated proforma promotion to the applicant having been allowed w.e.f. 3.1.2012, as per Para 228 of the Indian Railway Establishment Manual, his salary and entitlement in the higher grade vis-à-vis his junior has been fixed by the respondents to be effective from the earlier date, but payable from the date of such order.

5. In view of this, this O.A. is disposed of, but since the orders are not being passed on the lis before us, on merits, if this latest orders of the official Respondents give rise to a cause of action for either the applicant, or the two Private Respondents No.R/4 and R/5, they shall not be hit by the principle of constructive res-judicata, and they shall be free to approach the appropriate forum for the redressal of their grievances. In the circumstances, there shall be no order as to costs.

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(V.AJAY KUMAR)
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(SUDHIR KUMAR)
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