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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW.

Registration O.A.No. 342 of 1989 (L)

G.K.Srivastava Applicant.
Versus.
Union of India & Ors. Respondents.

Hon. Mr.Justice U.C.Srivastava, V.C.
Hon. Mr. A.B.Gorthi, A.M.

(By Hon. Mr.Justice U.C.Srivastava, V.C)

Having being deprived of ~~their~~ seniority over
~~their~~ juniors who were promoted to higher pay scale, few
years before promotion of applicant to the semi skilled
post and non-extension of same benefits to applicant as to
his erstwhile junior with effect from 1.8.78 with reference
to Railway Boards letter dated 22.11.82/ 1.12.82 and 11.1.83
the applicant has approached this Tribunal claiming relief
in respect of above grievances.

Prior to 1.1.78 the recruitment and promotion rules
the channel of promotion for the ~~late before~~ who were in the
pay scale 80-110, ~~to~~ to the post of Lab Assistant/Lab field
attendant in the pay scale of 110-180/ 260-430 as earlier
existed. These rules were ~~received~~ ^{revised} with effect from
1.1.78 and Lab Helpers were provided promotion avenue to
the post of semi skilled workers, prior and subsequent to
the IIIrd pay commission report which was given effect to
on 1.1.1973 pay scale were as follows.

	Old	New
Lab Helper	₹ 80 - ₹ 110	₹ 210 - ₹ 270
Semi Skilled	₹ 75 - ₹ 110	₹ 210 - ₹ 290
Khalasi	₹ 70 - ₹ 85	₹ 196 - ₹ 232

Thus as a result IIIrd pay commission report the pay scale
of Lab Helper which was earlier on the higher side was

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placed on the lower side as compared to that semi skilled . Admittedly prior to 1.1.78 the post of Lab Helper which was higher than other two categories referred to above was promotional post from amongst Semi Skilled workers (scale 75 - 110) Jamadar (Peon) and Daftari (Scale 75 - 95) with one year experience, Khalasi in the scale of 70 - 85 of 3 years standing and working in the Metallurgical and Chemical and Research Directorate. Thus notwithstanding revision of pay scale the feeder channel for lab Helper continued to be Semi Skilled workers and Khalasi even though no such promotion may have been made in accordance with the rules as they existed .

During 1974 some post of Semi Skilled workers in Electrical Maintenance section have fallen vacant and normally Khalasis were entitled to promotion to said post in accordance with rule but as no eligible Khalasi were available recruitment from amongst casual labour who have completed six month was made and six casual labour were and appointed . The Channel of promotion for semi Skilled workers in the rules as it counted was it existed was Skilled workers (fitter Mechanical) in the scale of 110 - 180 in Electrical Maintenance section . Three of the private respondents were promoted from amongst Khalasi after passing trade test while other three were appointed as semi skilled fitter as a result of direct recruitment held on 24.7.74 and dated 4.10.74.

According to Respondent the applicant were not considered for the post as being Lab Helper they were in higher pay scale than Khalasi and Higher than the post of Semi Skilled fitter . Thus as a result of implementation of IIIrd Pay Commission Report the applicant were deprived of the higher scale and post which earlier was a junior post and feeder channel for the post of Lab Helper even though under the rules

Which existed at the time of appointment were not amendment before the promotion of respondent and was amended in 1977 only with effect from 1.1.78 and all these private respondent were promoted or appointed as against rules and given benefit of ~~refrunctioning~~ ^{and structuring} with effect from 1.8.78 . The notification or restructuring was issued prior to Pay Commission report and 1983 Railway Board letter No. 11.1.1983 only 11 days after the date when pay Commission was to be implemented. Vacancies were existing when old rules were in force for the existing vacancies which were to be filled in accordance with old rule that is rule as where in existence same anomalous situation was created because of pay Commission Report. But Report of pay commission and the scale prescribed by it could not be taken to mean that seniors are to be made Juniors and thereof ~~feeder~~ channel be placed in the higher promotion & grade . Alongwith the implementation of pay commission report it was necessary that rule ^{be} also amended but the same was done. No one is to ~~be~~ suffer because of lapse on the part of Government. In view of the fact that rules were in existence and applicant was in the higher ladder the only homogeneous construction of Rules, Pay Scale and restructuring ^{which} was that Lab Helpers were first deemed to have been promoted to the post and grade of same skilled fitter. The applicant who opted for semi skilled grade having no option was promoted in 1983 with effect from a date in 1981 and the further result was that those ^{who} were junior to ^{him} them in meantime were promoted to still higher post. It is not that

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applicant did not raise his voice but he had been making representation after representation in this behalf but respondents preferred to keep mum. According to this application deserves to be allowed to the extent that it is directed that the applicant would be deemed to have been promoted to the grade of Semi Skilled with effect from 1981 when his erstwhile juniors were promoted and would be entitled to monetary benefits with effect from the date of actual promotion and all other benefits including ^{seniority} service from the date of national promotion.

No order as to cost.

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MEMBER (A)

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VICE CHAIRMAN

Dated the 11 / 12 / 1991.