

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH**

Original Application No.462/2005.  
This the 13<sup>th</sup> day of February 2008.

**HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.**

Gyan Chandra (G.C.) Tiwari aged about 61 years S/o Late Ram Narain Tiwari, Ex Shunter at Loco Dsl. Shed, North Eastern Railway, Charbagh , Lko. And resident of own house in front of Mill area Police Station, Talkatora Road, Lucknow.

...Applicants.

By Advocate: Shri A.C. Misra.

Versus.

1. Union of India through General Manager, North Eastern Railway Headquarter Office, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Divisional Office , Ashok Marg, Lucknow.

... Respondents.

By Advocate: Shri K.K. Shukla.

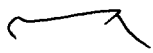
**ORDER**

**BY MR. M. KANTHAIAH, MEMBER JUDICIAL.**

Heard Shri A.C. Misra, the learned counsel for the applicant and Shri K.K. Shukla, the learned counsel for the respondents.

2. The applicant has filed OA to issue direction to the respondents to fix his pay as senior Shunter in the scale of Rs. 5000-8000 w.e.f. 01.12.2002 with consequential benefits of revision of pension after completion of punishment of WIP for one year by promoting as senior Shunter.

3. The respondents have filed Counter Affidavit denying the claim of the applicant stating that the grievance of the applicant was




already decided by a reasoned order and as such he is not entitled for any relief.

4. The applicant has filed Rejoinder Affidavit reiterating his pleas as made in the OA and also denied the stand taken by the respondents.

5. Heard both sides.

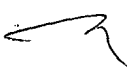
6. The point for consideration is whether the applicant is entitled for the relief as prayed for.

7. The admitted facts of the case are that the applicant after working more than 33 years in the respondents department, retired on 31.01.2002 on attaining the age of superannuation. During January, 2002, the applicant while working as junior Shunter in the Grade of Rs. 4000-6000, there was promotion to the post of senior Shunter in the grade of Rs. 5000-8000. When his claim for promotion was considered on 19.11.2001, because of punishment of WIT for one year, he was not promoted and his junior J.K. Kapoor and others were promoted to the post of senior Shunter. The punishment awarded against the applicant was ended w.e.f. December, 2001 and immediately, thereafter the competent authority recommended his name for promotion alongwith confidential reports on 29.1.2002. But when the proposal came for consideration for promotion on 08.02.2002, because of his retirement on 31.01.2002, they have not promoted the applicant. Subsequently, the applicant made a representation for considering his claim for promotion to the post of senior Shunter in the pay scale of Rs. 5000-8000, which is a non-selection post w.e.f. 12.11.2001, when his juniors J.K. Kapoor and others were promoted and also for other consequential reliefs. When



there was no response from the respondent authorities, the applicant also filed O.A.No.556/2003 for necessary direction and the same was disposed of on 04.12.2003 with a direction to the respondent authorities to consider and dispose of the pending representation of the applicant and pass a reasoned order. In pursuance of the said directions of the Tribunal, the respondent authorities have disposed of the pending representation of the applicant under which they rejected the claim of the applicant for grant of promotion from the date of his juniors J.K. Kapoor and others. Annexure-1 is the copy of said rejection order dated 12.02.2004. Thereafter, the applicant has filed the present O.A. stating that after expiry of punishment period w.e.f. 01.12.2001, he is entitled for promotion on the post of senior Shunter in the pay scale of Rs. 5000-8000 with all other consequential benefits.

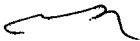
8. By way of the present OA, the applicant states that he is entitled for promotion on the post of senior Shunter, which is non-selection post, immediately after completion of punishment period on 01.12.2001. But because of delay in taking decision, he was not being promoted and thus retired on 31.01.2002 in the post of junior Shunter in the pay scale of Rs. 4000-6000 and thus, it causes monetary loss to him because of his retirement on 31.01.2002 on attaining superannuation. In the rejection order covered under Annexure-1 dated 12.02.2002, respondent authorities have rejected the claim of the applicant for grant of promotion on the post of senior Shunter in the pay scale of Rs./5000-8000 w.e.f. his junior J.K. Kapoor and others.



9. The punishment imposed against the applicant was completed by the end of November 2001 and immediately after completion of that punishment, he is entitled for his promotion to the post of senior Shunter. It is also an admitted fact that the competent authority also recommended his name for promotion and sent records alongwith CRs. But because of delay in the processing, they did not take any decision on such recommendation of the committee and after his retirement on 31.01.2002, they considered on 08.02.2002 and due to retirement his claim for promotion was not considered.

10. Admittedly, the applicant was entitled for his promotion to the post of senior Shunter immediately after completion of punishment period 01.12.2001 and because of delay in taking decision by the committee, he was not promoted and in the meantime, he was retired on 31.01.2002 on attaining superannuation. The respondent authorities are aware that the applicant is going to retire on 31.01.2002 and inspite of the same, they have not taken any decision for giving promotion to the applicant on the post of senior Shunter immediately after completion of punishment. Because on non taking of decision by the competent authorities in time, his lawful claim for promotion was not decided and caused loss to him. And thus there are merits in the claim of the applicant to seek at least notional promotion on the post of Senior Shunter in the pay scale of Rs. 5000-8000 w.e.f. 01.12.2001 and due to which his pension and all other pensionary benefits will be protected without causing any further loss to him.

In view of the above circumstances, OA is disposed of with a direction to the respondent authorities to consider the claim of the



applicant for promotion on the post of Senior Shunter in the pay scale of Rs.5000-8000 w.e.f. 01.12.2001 with an intention not to cause any monetary loss to his pension and pensionary benefits and also disposed of his claim under his representation covered under Annexure-8 dated 25.03.2004 and Annexure-9 dated 13.09.2004 and pass a reasoned order as per the rules and regulations within a period of three months from the date of the receipt of the certified copy of this order. No order as to costs.

  
**(M. KANTHAIYAH)**  
**MEMBER (J)**

13-02-08

Ak/.