

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Original Application No. 469/2005

This, the 16th day of May, 2012

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Hon'ble Sri S.P. Singh, Member (A)

Mahant Ram Sharma aged about 51 years son of late Sri Munshi Ram at present working as Material Checker, Bridge Workshop, Northern Railway, Charbagh, Lucknow

Applicant

By Advocate: Sri Praveen Kumar
Versus

1. The Chairman, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. The Chief Bridge Engineer, Northern Railway, Baroda House, New Delhi.
4. Dy. Chief Bridge Engineer, Northern Railway, Bridge Workshop, Charbagh, Lucknow

Respondents

By Advocate: Sri B.B. Tripathi

ORDER (Dictated in Open Court)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Heard and perused the material on record.

2. This O.A. has been filed for the following reliefs:-
 - i) Direct the opposite parties to give the applicant benefits of upgradation on the post of Material Clerk in terms of Railway Board's circular dated 16.8.78 issued by the Railway Board as interpreted by this Hon'ble Tribunal by this Hon'ble Tribunal vide its judgment and order dated 28.8.92 in O.A. No. 133/1991, the judgment of the Tribunal was affirmed by the Hon'ble Supreme Court while dismissing the SLP on 16.8.94 with all consequential benefits.
 - ii) to direct the opposite parties to extend the benefits of the judgment of the Hon'ble Tribuna in OA No. 133/1991 decided on 28.8.92 and as affirmed by the Hon'ble Supreme Court while dismissing the SLO No. 14120 of 1993 vide order dated 16.8.94 in the matter of benefit of

AR

upgradation and pay fixation in terms of the Railway Board's circular dated 16.8.1978.

iii) to direct as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case

iv) to award the cost through out to the applicant.

3. The contention on behalf of the applicant is that he was initially posted as Storeman in Bridge Department of the railway. In due course of time, the Railway Board upgraded the post of Storeman to the post Material Checker. But the said benefit was denied to the applicant. He therefore, filed O.A. No. 240/97 which was allowed in his favour on 20.9.2004. Then only, the respondents granted benefit of upgradation to the post of Material Checker. But by that time, even the post of Material Checker was upgraded to the post of Material Checking Clerk and the Railway Board issued necessary directions. This benefit was again denied. Hence this O.A.


4. It is further submitted that earlier one O.A. No. 133/91 filed by Hari Dutt Sharma was allowed in 1992 which has been upheld even by the Hon'ble Supreme Court. Similarly, the Principal Bench had also allowed one case on 5.2.2002 (O.A.No. 1443/2001). The respondents went for judicial review by filing writ petitions which have been disposed of by Hon'ble Delhi High Court in favour of the applicants on 5.4.2006 (Annexure SR-A-3 to the written arguments). It is said that in all the aforesaid cases, the applicants/petitioners of those cases were initially working as Storeman in the Bridge Department and then they were upgraded as Material Checker and lastly they were granted upgradation as Material Checking Clerk. Learned counsel further submits that the only plea which the respondents are taking is that the circular pertains to Store Department only while the applicant belongs to Store of Bridge Department. It is said that this plea was taken in all the aforesaid cases also which have been decided in favour of the applicants and the present applicant is similarly situated person.

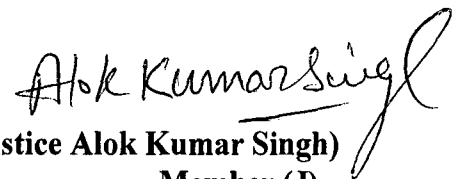


5. From the side of the respondents, nowhere it has been specifically and convincingly said that the applicant is not a similarly situated person.

6. Learned counsel for applicant points out that in furtherance of the order/judgment of the Principal Bench, the respondents have already granted this benefit in favour of Shyam Thakur, B.N. Dubey, Ganga Saran and G.N. Dubey who had been working with the applicant in the same cadre. Be that as it may.

7. In view of the above, we are of the view that it would meet the ends of justice if this seven years old O.A. is finally disposed of with liberty to the applicant to move a representation afresh to the respondents mentioning all the relevant points and with a direction to the respondents to dispose of it within a period of 2 months from the date of its submission, by passing a speaking and reasoned order after taking into account the aforesaid judgments/ orders passed by this bench and Principal Bench, Delhi which have been upheld by the Hon'ble Supreme Court and Hon'ble Delhi High Court respectively as discussed above and accordingly it is so ordered. O.A. stands finally disposed of. No order as to costs.


(S.P. Singh)
Member (A)


(Justice Alok Kumar Singh)
Member (J)

HLS/-