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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-LUCKNOW BENCH
LUCKNOW.

O.A. No. 82 of 1989.

K.S. Patra & 3 others..... Applicants.

Versus

Union of India & others..... Respondents.

Hon'ble Mr. Justice U.C. Srivastava- V.C.
Hon'ble Mr. K. Obayya - Member (A).

(By Hon'ble Mr. Justice U.C. Srivastava- V.C.)

The applicants four in number Sarva Sri K.S. Patra, D.M. Bhattacharjee, Nizamuddin and M.L.-Ajuja have approached this Tribunal challenging their supercession and have prayed that they will be promoted as Chief Design Assistants with effect from 1.4.85, the date when the juniors were promoted and they may also be paid the arrears of emoluments and interest may also be paid to them from that date.

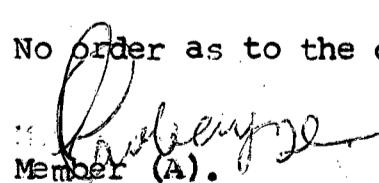
2. All these applicants working in R.D.S.O. in the grade of 550-750. In view of the Railway Board circular dated 3.7.85 cadre restructuring was to be done on the basis of ^{one} scrutiny of service records. The applicant no. 2, 3 & 4 were superseded and their juniors were promoted to higher grade to the post of Chief Design Assistant in Grade Rs. 650-960. The applicant no. 1 was subsequently superseded by order dated 22.7.86 which was in continuation of earlier order. Representations were made by these applicants but the same representations were rejected and that is why the applicants have approached this tribunal.

3. The respondents have opposed the claim of the applicants and have stated that the gradation was made by the departmental Promotion committee in pursuance of the Railway Board circular dated 3.7.85 and the same read as follows " Existing classification of Post covered by these re-structuring orders

"Selection" and "Non-Selection" as the case may be remains unchanged. However, for the purpose of implementation of these orders, if an individual railway servant becomes due for promotion to only one grade above the grade of the post held by him, at present, on a regular basis, and such higher grade post is classified as a "Selection" post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based on a scrutiny of service records without holding any written and/or viva-voce tests. Under this procedure the categorisation 'outstanding' will not exist." As a result of a consideration by the Departmental promotion Committee 31 Officers were promoted and four were not promoted. It has been brought to our notice that all these persons were promoted on adhoc basis, in the very next year, obviously because vacancies were existing and they were considered ~~to~~ fit to handle this up-graded post. On behalf of the applicant this selection has been challenged and it has been contended that the record was not properly prepared. The record has been produced before us which indicates that the entries of over all 31 persons who were promoted were much better than the applicant, although the applicant earned the entry of good and very good but in the year 1984 incidently all these four were rated as average and it appears that because of this light difference between the record of all these persons, these four applicants were not up-graded. The assessment was to be made by the Departmental Promotion Committee and the difference howsoever made, was for the Departmental Promotion Committee to decide and asses and ~~no longer~~ howsoever the contention on behalf of the applicant ~~xxxxxxxxxx~~

is strong, it may be, these minor details or entry of one year was not to be taken into account. It is not possible for the Tribunal to re-asses the same. In this connection the powers of the court is limited, and in this connection a reference is to be made in the case of Balpat Aba Sahib Splankey Vs. S. Mahajan A.I.R. 1990 S.C. P. 434 and in the case of State Bank of India Vs. Mohd. Mynuddin S.C. 1989 and the case of U.P.S.C Vs. Hiranya Lal Deo 1988 S.C. P. 1069. Although the later case was under a particular regulation, but the position will not be different when assessment is made by the Departmental Promotion Committee. ~~Shaxa~~

4. There being no allegation of malafide or bias, as such it cannot be said that the Departmental Promotion Committee fell into an error in making the assessment. However, so far as the record is concerned the difference does not appear to be much and in particular year, there was down gradation for which it appears that no earlier notice or whatever is given to the applicant, there appears to be no reason, ~~that~~ why now the case of upgradation or higher post will not be considered and their adhoc upgradation will not be regularised. ~~XXXXXX~~ but for the above observation, the application is otherwise dismissed. No order as to the costs.


Member (A).

Vice Chairman.

Dt: June 24, 1992.
(DPS)