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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW.

T.A.No.104 of 1992

(C.A.No.839 of 1991)

S.M.A.R.ZaidiApplicant.

Versus

Union of India & othersRespondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Chavva, A.M.

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

In the year 1984 while the applicant was working as Senior Clerk in the Divisional Railway Manager, Northern Railway, Lucknow, he was placed under suspension w.e.f. 30.6.84 on the ground that a criminal case was under investigation. The said criminal case was dropped on 30.6.87 and when the applicant was not reinstated in service, he filed an application before this tribunal praying that the suspension order may be quashed and he may be reinstated with all back wages. The tribunal allowed the said application and held that the impugned suspension order was passed on account of pendency of criminal case and as the criminal case has been dropped, there is no basis for the suspension order which was quashed and a direction was given to reinstate the applicant in service and pay him the back wages with effect from the date of suspension within a period of two months. The order was complied with and the applicant was reinstated and back wages were given. It was thereafter that the applicant moved two representations for consideration of his claim for promotion to the post of Head Clerk (Trains) in the grade of 425-700 w.e.f. 1.1.84 in view of the Railway Board order for restructuring of cadre of the Ministerial Staff issued on 16.11.85 that the promotions are against non-selection posts

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were to be made on the basis of C.R. file as on 1.1.84. The applicant's junior was promoted but the applicant was not promoted. Representations of the applicant bore no fruit, that is why he again approached this tribunal and prayed that the respondents may be directed to consider the claim for promotion of the applicant for the post of Head Clerk (Trains) as per directive issued by the Railway Board on 16.11.83 from the date his junior was promoted i.e. w.e.f. 1.1.84 and they may also be directed to fix his pay on the promotional post w.e.f. 1.1.84.

2. The respondents have refuted the claim of the applicant on the ground that as the criminal case was pending against the applicant under Prevention of Corruption Act, he was not considered suitable for promotion in the grade of 1400-2300/-. As the criminal proceedings were dropped on 30.6.87 on technical ground, the employees, who were available at that time, were given benefit of ^{and} restructuring/as per existing orders, only the persons free from D & AR/SPE/Vig. ~~the~~ cases, were to be considered for promotion.

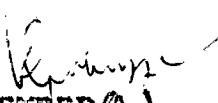
3. The factual position is quite clear. After dropping of the criminal proceedings, the entire proceedings against the applicant stood void, meaning thereby on the date when the promotion was to be made, there was no proceeding against the applicant and the applicant was free from any proceeding and after reinstatement, it was the duty of the respondents to consider the case of the applicant for promotion with effect from the date his junior was promoted. Accordingly, the respondents are directed to reconsider the case

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of the applicant for promotion to the said post
w.o.g. 1.1.34 taking into consideration the fact
that no criminal proceeding was pending against him and
in case, the applicant is promoted, obviously his
promotion from 1.1.34 will be notional and actual
from this date and even if he ^{reconsidered the promotion} is promoted two months.
He will obviously be entitled to get all consequential
bonofits. With those observations, the application
stands disposed of. No order as to costs.

Cerace
6/3/93


MEMBER (A)


VICE CHAIRMAN.

DATED: JANUARY 8, 1993.

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