

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 368/92

O P. Saxena

Petitioner

versus

Union of India & others

Respondents.

Shri R.S. Ojha Counsel for applicant.

Shri A.K. Chaturvedi Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

The grievance of the applicant who has been superseded by his juniors in respect of promotion post of not only Assistant Superintendent and Superintendent but injustice has been done to him and he has not been given due promotion to which he was entitled, and the promotion which was given to him was no promotion at all and he has been discriminated in as much as he has been asked to go and join at Lucknow and even though he was not relieved by his immediate officer yet ultimately the said order of promotion too has been cancelled, with the result that he has been deprived of the promotional post. The applicant has pointed out that along with him two other persons were promoted to the post of Assistant

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Superintendent but they were posted in the same office at Pratapgarh while the applicant was posted with post at Lucknow. Not only these two persons have retired but juniors were promoted and later on 9 juniors were promoted to the post of Assistant Superintendent. The applicant's promotion order which has been given effect at the place the applicant was posted, like others has been cancelled and the applicant is being deprived of his right.

2. The applicant entered the service as Clerk in the year 1957 after undergoing selection by the Railway Service Commission and was confirmed on the post on 1.10.1962 with the scale of Rs 330-560. He was promoted to the post of Head Clerk grade Rs 425-700 (R.P.S. Rs 1400-2300) w.e.f. 1.1.1984. In the seniority list dated 20.10.1984 of the Ministerial Group and Cadre in the Transportation Branch in the Lucknow Division of the Northern Railway, which itself indicates that the applicant is the senior most candidate on the post of Superintendent in the grade of Rs 2000-3200. Subsequently a seniority list was published on 30.11.89 in which the applicant has been maintained at his correct position and the benefit of promotion granted to the applicant w.e.f. 20.12.1985 with the designation of Assistant Superintendent in the grade of Rs 1600-2660. According to the applicant it was automatic consequent upon the retirement of Shri C.B. Lall on 30.6.1992, even then the applicant wasnot given promotion, as the person

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who was in between already retired from service. The applicant's representations at every stage bore no fruit. The applicant who was senior most person, and two other Head Clerks i.e. Shri K.P. Yadava in the office at Pratapgarh and Shri Govind Lal in the office at Faizabad were promoted as Assistant Superintendent and they were promoted at their respective places of posting. Out of two, Shri K.P. Yadav has already retired and Shri Govind Lal has been promoted as Assistant Superintendent and has now been promoted as Superintendent grade Rs 2000-3200 on 22.11.1991. According to the applicant, his case for promotion was not considered and two persons junior to him who have retired from service were given benefit of the said post. The applicant has highlighted the grievance against the adverse remarks by one Imtiyaz Ahmad, Station Superintendent due to personal grudge. From the pleadings of the parties it appears that 9 persons junior to the applicant have been promoted to the post of Assistant Superintendent and the applicant was promoted and transferred to Lucknow.

3. According to the respondents the applicant has not joined on the promoted post at Lucknow and that is why the promotion order has been cancelled. The applicant states that he was not relieved by the officer while he was working although according to the respondents he should have joined, but no proof has been furnished by the respondents that the applicant, at any point of time

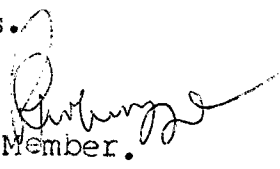
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was relieved. It may be that the applicant was fighting for his promotion at the post at Pratapgarrh. Even if the order was substituted and the applicant was still working at Pratapgarrh, after retirement of Shri Yadav, he was not promoted.

4. It is not necessary to enter into the controversy. The fact remains that when two persons were promoted, he should have been promoted when Shri Yadav retired, even this was not done. It indicates that due to annoyance the applicant was not promoted at Pratapgarrh and no plausible explanation has been given. It has also not been explained as to why he could not be posted subsequently at Pratapgarrh. It may be that the applicant could not go outside because of his personal difficulties. As the respondents themselves are responsible for not posting and promoting the applicant at Pratapgarrh after retirement of Shri Yadav and it was a deliberate and mala fide act on their part. It may be a transfer order which cannot be legally sustained. The order of cancellation of promotion order dated 10.7.92 in the absence of any proof that the applicant was relieved. If that be so, the respondents will consider his case for promotion post to the grade of Assistant Superintendent and Superintendent and let this consideration be done within 3 months from the date of receipt of a copy of this order by the respondents, taking into consideration that there were

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lapses on the part of the respondents. It has been stated that the salary of the applicant has been withheld. The respondents are directed to pay the same within 3 months. It has not been stated anywhere that after retirement of Shri K.P. Ydaav the post was abolished, only a thing which has been stated is that now the post of Assistant Superintendent grade II exists under the Traffic Inspector, Pratapgarh. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated 16.12.92