

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

Lucknow, this, the 5th ^{day of} February, 2001. Q.A. NO/39/92

HON. MR. D.C.VERMA, MEMBER(J)

HON. MR. A. K. MISRA, MEMBER(A)

Bikram Singh, aged about 58½ years, son of late Mehar Singh, resident of B-16/C, L.D. A. Colony, behind Lucknow Polytechnic School, Kanpur Road, Lucknow, retired as Divisional Commercial Superintendent, Northern Railway, Lucknow Division, Lucknow.

BY Advocate none.

....Applicant.

VERSUS

1. Union of India, through Chairman, Railway Board, Rail Bhawan, New Delhi.

2. General Manager, Northern Railway, Baroda House, New Delhi.

3. Divisional railway Manager, Northern Railway, Lucknow Division Hazratganj, Lucknow.
BY Advocate Shri Anil Srivastava

....Respondents.

ORDER (ORAL)

BY D.C.VERMA, MEMBER(J)

The relief claimed in the Original Application is to promote the applicant to the post of Divisional Commercial Superintendent (DCS) w.e.f. 18th January, 1983 with salary and allowances, and difference of pay. The applicant has also claimed a revised pension and in consequence thereof difference of pension amount-commutation, gratuity, leave encashment etc with interest thereon.

2. The brief facts of the case are that after selection by the Railway Service Commission, the applicant was appointed as Assistant Station Master in

Northern Railway in June, 1954. In 1963, the applicant was promoted to the post of Reservation Clerk and thereafter, as Chief Reservation/Inquiry Clerk in January, 1969. In 1973, applicant was promoted to the post of Chief Reservation Inspector. A selection for the post of Class II in the Traffic and Commercial Wing of Northern Railway was held against the vacancies of the year 1975-76. The applicant alongwith others appeared in the written test and viva-voce test. A panel of 26 selected candidates was declared on 31st December 1976. The applicant's name was not in the panel. The applicant's grievance is that a shadow panel/waiting list of six candidates was prepared, including the name of the applicant alongwith M.M. Verma, Som Nath, A.P. Chaudhary and B.N. Singh. M.M. Verma, A.P. Chaudhary and B.N. Singh made representations. Their names were also approved. The initial panel of 26 candidates was enlarged and names of M.M. Verma, A.P. Chaudhary and B.N. Singh was also included in the panel declared on 31st December 1976 through letter dated 13th September, 1984. The representation of the applicant was also allowed, and approval was given through letter dated 4th August 1986, to include the name of the applicant in the panel dated 31st December 1976. M.M. Verma was promoted to the post of DCS through order dated 18th January 1983. Applicant was promoted as DCS through order dated 11.9.87. The grievance of the applicant is that the M.M. Verma was junior, hence the applicant should have been promoted to the post of DCS on 18th January, 1983.

3. The respondents have, in the Counter Affidavit admitted that in the original list of 26 candidates, name of the applicant, M.M. Verma, A.P. Chaudhary etc was not included. These names were included subsequently. Approval of inclusion of the name of M.M. Verma, A.P. Chaudhary and B.N. Singh was accorded in 1984, whereas the approval of name of Bikram Singh, the present applicant and of one Mukandi Lal was accorded in 1986. In the panel, copy ANNEXURE-1 to the Original Application

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the name of M.M. Verma, A.P. Chaudhary, and B.N. Singh was added at serial No. 27, 28, 29 respectively. When the name of the applicant and Mukandi Lal was approved, their names were added at serial No. 28, 31. Meaning thereby, the applicant was placed between M.M. Verma and A.P. Chaudhary and the name of Mukandi Lal was added after B.N. Singh. The applicant's claim is that his name be placed above M.M. Verma. ANNEXURE-A.3 dated 4.8.1986 is copy of the final panel of selected officers prepared after interpolating the names of M.M. Verma, A.P. Chaudhary, B.N. Singh and Bikram Singh. In this panel, name of applicant Bikram Singh is at serial No. 28 above the name of M.M. Verma. As per this panel (ANNEXURE-A.3), applicant is senior to M.M. Verma. M.M. Verma was promoted as DCS through order dated 18th January 1983. The applicant was not given promotion, because his name was brought in the panel by subsequent order passed in 1986. The non-inclusion of the name of the applicant in the initial panel is not due to fault on part of the applicant, ^{but} for administration lapse due to which ~~the~~ applicant was not included in the initial panel. ^{held} The applicant cannot be ₂ responsible. Consequently, the applicant would be entitled to promotion to the post of DCS w.e.f. the date his junior M.M. Verma was promoted.

4. In view of the discussion made above, the Original Application is allowed with a direction to the respondents to treat the applicant ^{as} promoted to the post of DCS w.e.f. the date his junior M.M. Verma was promoted. The applicant shall be deemed to have been promoted w.e.f. the date on notional basis till the date of his actual promotion. However, for the period of deemed ⁵ promotion benefit of increments would be given to the applicant for fixation of pay.

5. The Original Application stands ⁵ allowed as above. Cost easy. Compliance of the order be made within a period of three months for ² giving other consequential