

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No.101/89

M.G.S.Naidu

Applicant

versus

Union of India & others

Respondents.

Shri Qamrul Hasan Counsel for Applicant.

Shri Anil Srivastava, Counsel for Respondents.

CORAM:

HON. MR. JUSTICE U.C. SRIVASTAVA, V.C.

HON. MR. K. OBAYYA, ADMN. MEMBER.

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

The applicant entered the service of Northern Railway as Overseer Grade I in the scale of Rs 80-160 in the month of June, 1961 and in December of the same year he was promoted as Assistant Inspector of Works. It appears that because of his best services he was promoted on adhoc basis to the post of Assistant Inspector of Works in the year 1976. A selection was conducted by the D.R.M. Northern Railway, Lucknow for the post of I-W grade III in the scale of Rs 425-700, and although the applicant was one of the candidates for the same, according to him was found suitable for the same but his name was not placed in the panel and his name came at serial No. 3 and above the name of Shri H.C. Gupta. It is also evident from the letter dated 27.1.83 issued by the Divisional Personnel Officer, Lucknow which

W

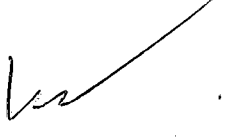
indicates that the name of the applicant in the panel was amended and revised in the amended panel and his name found place at serial No. 3, over Shri H.C. Gupta. The grievance of the applicant is that he was not promoted while Shri H.C. Gupta was promoted.

2. It is admitted position that the applicant was placed in the panel and subsequently after revision of panel was placed at serial No. 3. The respondents have stated that the applicant could not be promoted, as some Vigilance enquiry was pending against him and that is why the promotion was given to the next junior, that too on adhoc basis. According to the respondents, as per extant rules if a CBI or Vigilance/SPE case is pending against any employee, then he cannot be promoted to the next higher grade. The learned counsel for the applicant stated that ^{when} the applicant was selected in the ^{year} 1977, the respondents were bound to give appointment and "merely because the Vigilance enquiry was pending, he cannot be deprived of promotion. There is no denial of the fact that the applicant has ^{represented} ~~refuted~~ but no action has been taken. On the basis of Vigilance enquiry which could not have any civil or evil consequences, promotion could not be withdrawn. The applicant was selected and he was entitled to promotion.

3. Accordingly, the respondents, are directed to

to consider the case of the applicant for promotion with effect from the date he was entitled to, ignoring the vigilance enquiry, in respect of the vacancy available then and in case he is entitled, notional promotion with effect from the date he is entitled to the promotion but the applicant will ~~not~~ be entitled to consequential benefits as a result of the said promotion and this matter be considered within a period of three months of the receipt of a copy of this judgment.


Adm. Member.


Vice Chairman.

Lucknow: Dated 3.8.92.

Shakeel/