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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW.

O.A. No. 264 of 1991.

Munendra Prakash Applicant

Versus

Union of India & others Respondents.

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

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

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

The applicant was appointed as an Electric Khala-si in the year 1957 and he was promoted as a Pump Fitter in the year 1965 and in the highly skilled fitter Grade II thereafter on 1.8.78. The story of the applicant starts when the options were invited from the highly skilled Grade II in the year 1980. As the option was in respect of promotion either in highly skilled Fitter Grade-I or Mistry. The applicant submitted his option for the post of Mistry and one Sohan Lal submitted his option for the post of highly skilled Fitter Grade-I who was thereafter called for suitability test in the year 1980 but he could not succeed. According to the applicant, he, being a seniormost person, was put to officiate as Mistry from 5.5.82 to 17.7.82 and thereafter from 31.12.82 to 23.1.83 he also officiated as Mistry because one Pyarey Lal, who was senior to him, proceeded on leave and from 1.2.83 to 1.5.85 when the said Pyarey Lal was retired on 31.1.83. After the retirement of said Pyarey Lal, Sohan Lal was promoted to the post of Mistry although he had not submitted his option for the same. Feeling aggrieved with the same, the applicant moved a representation against the same and the applicant's grievance is that several junior employees, who were working as H.S. Fitter Grade-II and gave their option

for the advancement on the post of H.S.Fitter Grade-I, were promoted and the option of the applicant was kept in cold storage. The promotion of Sohan Lal was challenged by the Employees' union whereafter the said Sohan Lal vide order dated 24.7.84 was posted as H.S.Fitter Grade I in place of one Shyam Lal who has retired and said Sohan Lal was directed to appear in the suitability test and the applicant was also directed to appear in the suitability test. The aforesaid Sohan Lal filed a writ petition before the High Court against the same and an interim order was passed staying the operation and implementation of the same. Said Sohan Lal died on 1.5.89 and after his death, the applicant moved an application that the post of Mistry has fallen vacant and he may be given the said post. As the writ petition had become infructuous and it was as late as in the year 1987, a decision was taken by the Railway Administration that the post of Mistry was made higher scale post from H.S.Fitter Grade I and as such the promotion on the post of Mistry would be made from H.S.Fitter Grade I and not from H.S.Fitter Grade II. According to the applicant, his juniors, who were working as H.S.Fitter Grade II, have been promoted because an interim order was passed in the Sohan Lal's case and the applicant's case was not considered. The grievance of the applicant is that even though he was entitled to appear in the suitability test and in case he would have been allowed to appear in the suitability test, he would have succeeded in the same and he would have been entitled to the said post whenever the post fell vacant and because of seniority. His contention appears to be correct in view of the fact that vacancy pertained

to the earlier years when the Pay Commission report had not come into existence. Accordingly, the respondents are directed to allow the applicant to appear in the suitability test in respect of vacancy which was claimed by him. In case, the applicant succeeds, his case for promotion to the said post may be considered obviously notionally, not actually with effect from the date on which he was in normal course entitled to in case there was no interim order. It is made clear that of course no party can be made to suffer because of the interim order which ultimately came to an end. Let decision be taken in this behalf within a period of three months from the date of communication of this order. With these observations, the application stands disposed of. No order as to costs.


Member (A)


VICE CHAIRMAN.

DATED: NOVEMBER 16, 1992.

(ug)

In the Central Administrative Tribunal Allahabad,
Sircuit Bench Lucknow.
O.A.No. 264 of 91. C,

Versus.

Union of India and Others.. Opp-Parties.

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Lucknow:-

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Dated:-August- -1991

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(FADAAK AHMAD)
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