

(A6)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

Original Application No. 145/92

Vinay Kumar and others Applicants.

versus

Union of India & others Respondents.

Shri P.K. Srivastava Counsel for Applicants.

Shri Manik Sinha 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 applicants who were appointed as Apprentices on different dates and were posted in the scale of Rs 470-750(revised to Rs 1400-2600) and they were promoted on 25.3.1986 in the pay scale of Rs 2000-3200 to the post of Deputy Chief Controller in the North Eastern Railway, Lucknow. According to the applicants, notwithstanding the fact that they were posted to Samastipur but they were not relieved by the D.R.M., Lucknow, with the result that they could not join the said post. The applicants were promoted on 18.6.87 and it has been pointed out that on 3.4.86, 9.4.87 and 27.4.87 the D.R.M., Lucknow addressed letters to the General Manager(P) requesting him to let the petitioners work at Lucknow under his control on the post of Deputy Chief Controller and in the letters aforementioned, the D.R.M. pointed out that 2 vacancies existed at Lucknow. The applicants contend that the posts were vacant and

W

A-7

their promotions will date back when others were promoted. In this connection the applicants have referred the para 228 of the Railway Establishment Manual, vol. I, in which it has been provided that no one can be pushed back in the seniority or promotion because of the fault or laches on the part of the Railway Administration. Reference has also been made to rule 1326 R. II, 1987 Edition of the Railway Establishment Manual and that is why they have approached the Tribunal praying that their promotion should date back when they were actually promoted and consequential benefits of seniority etc. be also given to them.

2. According to the respondents, the applicants manipulated their stay at Lucknow. It is because of their manipulation the promotion order could not be issued. In this connection learned counsel for the respondents offered to show the notings on the file and contended that the letters which were issued, were under pressure. Even if it could be said that there was some element in the same, unless there is any proof reliance cannot be placed on the same. As a matter of fact, ~~if~~ there ~~was~~ must be some material on record to show the refusal of the applicants from which it could be inferred that there was refusal by the applicants. It cannot be said that there was any refusal by the applicants and they are entitled to

W

178

the benefit of Para 228 of the Railway Establishment Manual. In the year 1987, the General Manager passed the order that there was no vacancy in the city of Lucknow and as such the applicant could not be issued order which was erroneous order but this fact has not been admitted by the applicants. Even if at that time, there was no vacancy, the applicants will be deemed to be promoted on the day vacancies arise in the Division. The learned counsel for the intervenor stated that Shri N.A. Siddiqui's seniority may not be disturbed and he is senior to the ^{applicants} ~~respondents~~ otherwise they will rank behind them.

3. The respondents are directed to give promotion to the applicants with effect from the date they were promoted, i.e. from 25.3.1986 giving consequential benefits to them within 3 months.

4. Application stands disposed of as above. No order as to costs.

Adm. Member.

Vice Chairman.

Lucknow: Dated: 10.3.93.