

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA

O.A. No. 501/1996

Date of Order: 7/5/04

*As per*  
Krishna Murari Prasad, S/o Shri Satya Narain Gupta,  
Resident of Village Bank, P.O. Baruadih(Baitalpur),  
District. Deoria (U.P.). presently working as Asstt.  
Engineer (M-G). Muzaffarpur under Divisional Rail  
Manager, N.E. Railway, Samastipur.

..... Applicant.

- Versus -

1. The Union of India through the General Manager,  
North Eastern Railway, Gorakhpur (U.P.).
2. The General Manager (P), N.E. Railway, Gorakhpur  
(U.P.)

..... Respondents.

Counsel for the applicant - Shri Sudama Pandey.

Counsel for the respondents - Shri Shekhar Singh.

C O R A M

HON'BLE MRS. SHYAMA DOGRA, MEMBER (JUDICIAL)

HON'BLE MR. MANTRESHWAR JHA, MEMBER (ADMINISTRATIVE)

O R D E R

Mantreshwar Jha, Member (A):-

*As per*  
This OA has been filed by Shri Krishna Murari Prasad  
presently working as Assistant Engineer (M-G), Muzaffarpur  
for the following main reliefs:-

- i) The respondents be directed to fix his pay in  
scale (2375-3500) w.e.f. 1.3.93 as a result of  
restructuring and then in scale (2000-3500) by  
virtue of his promotion.
- ii) The respondents be directed to step up his

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pay above his juniors appearing at Sl. 26 and 29 of Annexure A/1 (series).

(iii) The respondents be directed to pay differences of pay and allowances as admissible thereon with effect from 1.3.1993 and onwards alongwith 20% interest.

2. The case of the applicant is that in pursuance to restructuring of the cadres introduced by the Railway Board vide their policy letter no. Pe -III/91/CRC/1 dated 27.1.1993 <sup>which</sup> ~~2~~ was circulated by General Manager(P) Gorakhpur's letter dated 5.2.1993 which inter alia provided for " This restructuring of cadre will be with reference to the sanctioned cadre strength on 1.3.1993. The staff who will be placed in higher grades as a result of implementation of these orders will draw pay in higher grade with effect from 1.3.1993." (Annexure A/4).

3. In pursuance of this policy circular, the percentage of various grades of Permanent Way Inspectors were raised from 26 to 46 as 20 posts were increased in their grade (Annexure A/5). The contention of the applicant is that as per restructuring 32 persons were given promotion in Grade (2375-3500), but the applicant was not promoted even though he was at Sl. No. 23 ~~although~~ in the seniority list (Annexure A/2) his name was at Sl. No. 124 which was above Shri C.B. Srivastava, who has been promoted. The applicant submitted representation dated 11.7.95 addressed to the General Manager(P) N.E. Railway Gorakhpur (Annexure A/7) and the same was <sup>summarily</sup> ~~2~~ rejected without passing any speaking order. According to the applicant despite availability of clear vacancy, the applicant has not been given his due promotion in grade ( 2375-3500) w.e.f. 1.3.1993 as per scheme of restructuring and even the

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policy of Railway Board has been frustrated.

4. The respondents have filed their Written statement. According to them the applicant seeks a relief in regard to the promotion given way back in March/November, 1993 i.e. more than six years before the date of filing of this application. According to the respondents the applicant was not in the cadre of PWI on reference date as he had already taken promotion on option in the grade and cadre of Assistant Engineer Group 'B' as on 30.6.1993 itself. The respondents have further submitted that in compliance of the Railway Board's restructuring order it was proposed to give benefit of promotion to 20 persons according to seniority w.e.f. 1.3.1993 and 12 persons with immediate effect. The name of the applicant was not in the field of eligibility because he was not among the first 20's. Since he had already been promoted as AEN on 30.6.93, whereas the promotion for additional posts in terms of restructuring was put up on 28.7.1993, the question of giving promotion to him w.e.f. 1.3.1993 could not arise. It has further been submitted that even Shri C.N. Khanna who was above him in the seniority list <sup>got promotion</sup> w.e.f. 24.11.93, Shri C.P. Srivastava who was at Sl. No. 125 just below Shri Jaiswal also got promotion w.e.f. 24.11.1993. In the written statement, the respondents have also contested the claim of the applicant that he had given his representation while working in Group 'D'.

5. Rejoinder has been filed on behalf of the applicant in which the plea of limitation taken by the respondents have been contested on the ground that his claim is covered under recurring cause of action. The applicant has also contested the respondent's stand in the written statement on other grounds,

6. We have gone through the averments made by both the parties and also carefully gone through the record. Admittedly, the applicant was at s. no. 124 in the seniority list and as a result of restructuring circular issued by the Railway Board only his seniors were given the benefit of restructuring as per vacancies created in terms of Railway Board's circular. Others have been given promotion w.e.f. 23.11.1993 whereas the applicant had opted to get promoted on option in the same grade and cadre of Assistant Engineer Group 'B' as on 30.6.1993 itself. The case of the applicant would have been on a different footing had his juniors been promoted w.e.f. 1.3. 1993 as against promotion of the applicant w.e.f. 30.6.1993.

7. From the facts and circumstances of the case discussed above, we are satisfied that the applicant <sup>has</sup> failed to make out a case for getting any relief as we are satisfied that no discrimination has been caused to him and he has not suffered any loss as a result of implementation of the restructuring scheme of the Railway Board and even Shri C.N. Khanna who was one place above him has been promoted w.e.f. 30.11.1993, whereas he has been promoted w.e.f. 30.6.1993.

8. In view of the above, we are satisfied that the present application is devoid of merit and is, therefore, dismissed with no costs.

( MANTRESHWAR JHA )  
MEMBER (A)

SRK/

( SHYAMA DOGRA )  
MEMBER (J) 7/5/04