

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No. 326/86.

Shri V.L.Narsimhan,
C/o. Dy. Chief Engineer (Constn.),
SEGL/North, Pune.

... Applicant.

V/s.

Union of India.

Coram: Hon'ble Member (A), Shri S.P. Mukerjee,
Hon'ble Member (J), Shri M.B. Mujumdar.

Appearances:

Applicant in person and
Shri N.R. Bhavsar for
the Respondents.



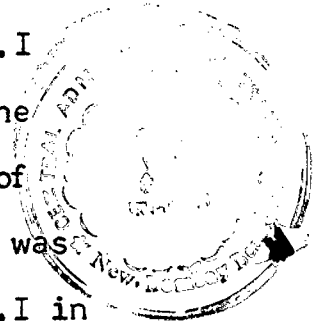
Oral Judgment:

Per Shri S.P. Mukerjee, Member (A) Dated: 5.10.1987

In this transferred Suit No. 2489 of 1980 the Plaintiff has claimed compensation for damages caused by the defendants to the tune of Rs. 10,000 on the ground that he was illegally denied the benefit of promotion to Gr. I between November, 1974 and December, 1978. According to the plaintiff on 17.4.1973 while he was working in a Gr. II post of Inspector of Works (hereinafter referred to as I.O.W.) he was charge-sheeted, but no enquiry proceedings were initiated and in 1979 the disciplinary proceedings were dropped. In the mean^rtime he was considered for promotion to the post of I.O.W. Gr. I, qualified in the written test held in 1974, but was not found suitable for empanelment by the selection committee which met in 1975. While the plaintiff's contention is that he was dis-qualified for promotion because of the wrongful disciplinary proceedings pending against him, the respondents have stated that he was not found suitable on merits. It has ^{however} ~~also~~ been accepted by the respondents that after the disciplinary proceedings were dropped, subsequent to the plaintiff's being acquitted by the Criminal Court, ^{and promoted} the plaintiff was considered for promotion to Gr. I in 1981.

The learned counsel for the respondents showed us the Central Railways letter No.HPB/462/RE/DOdt. 20.3.1982 from which it was clear that he was treated to have been promoted to Gr.I w.e.f. 1.1.1979 and his pay was fixed in that grade of Rs.700-900 on the basis of that proforma promotion, but no arrears of pay between 1.1.1979 and the date of his actual promotion to Gr.I were paid.

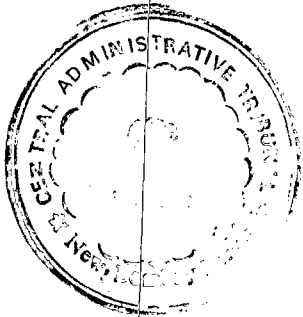
2. We have heard the arguments of the plaintiff in person and the learned counsel for the respondents. While in accordance with the aforesaid letter of Central Railway, dt. 20.3.1982 the plaintiff was given proforma promotion to Gr.I w.e.f. 1.1.1979 i.e. "the date on which his immediate junior I.O.W. Shri K.I.Sankaran was promoted to this grade", The contention of the plaintiff is that his ~~immediate~~ ^{several places} junior one Shri S.Raja Rao who was ~~much more~~ ^{much more} junior to him had been so promoted to Gr.I from November, 1975 and therefore according to the plaintiff he was entitled to arrears of pay in Gr.I w.e.f. November, 1975. The learned counsel for the respondents could not produce any seniority list of Gr.III or Gr.II for clinching the issue as to who was immediately junior ^{and} to the plaintiff promoted to Gr.I in 1975. However, from para 15 of the written statement filed by the respondents it is clear that through the selection of 1975 " the employees junior to the plaintiff who were found suitable were selected as per the rules and regulations". Since the respondents themselves have conceded proforma promotion of the plaintiff to Gr.I from the date his immediate junior was so promoted, ^{we} ~~we~~ do not find much difficulty in ^{directing} ~~granting~~ promotion to Gr.I to the plaintiff from a date his immediate junior in Gr.II I.O.W. was promoted.



3. Based on the decision of the Tribunal in Transferred Application No.411/86 in their judgment delivered on 1.6.1987, the plaintiff has been given full w.e.f. 16.2.1971. Accordingly his seniority in Gr.II scale promotion from Gr.III to Gr.II should be redetermined by the respondents on the basis of his promotion to Gr.II w.e.f. that date. On the basis of his revised seniority in Gr.II the date of his promotion to Gr.I should be determined based on the date on which an Officer in Gr.II immediately junior to him in the revised seniority was so promoted. In absence of any seniority list produced before us we are not able to pin point the date of such promotion but would leave it to the respondents to identify this date by reckoning the seniority of the plaintiff in Gr.II on the basis of his promotion to that grade w.e.f. 16.2.1971. We therefore, dispose of the suit with the direction that the seniority of the plaintiff in Gr.II of the I.O.W. should be fixed on the basis of his promotion to that grade w.e.f. 16.2.1971 and the plaintiff should be treated to have been promoted to Gr.I w.e.f. ^{the} ~~that~~ date his immediate junior in Gr.II was so promoted. This only means that the date 1.1.1979 already fixed by the respondents for giving proforma promotion to grade I will have to be modified. We further direct that from the date of his promotion to Gr.I so determined the plaintiff would be entitled to payment of arrears of salary and allowances in that grade. The suit is decreed to this extent only with no order as to costs.

4. In another transferred suit No.364 of 1986 the plaintiff has claimed compensation of Rs.10,000 on the ground of his deprived promotion to the next higher grade of Chief Inspector of Works(C.I.O.W.) w.e.f. June, 1979. In view of what has been stated above we direct that the plaintiff's position in the seniority list of I.O.W. Gr.I should be refixed on the basis of his promotion to that grade in

accordance with our direction in the preceding para and by virtue of his revised seniority in Gr.I consequent upon his retrospective promotion to that grade, the plaintiff should be considered for further promotion as Chief Inspector of Works/Assistant Engineer as the case may be in accordance with the extant rules and regulations with effect from the date his next junior was promoted as such. If he is so promoted he should be given arrears of pay as Chief Inspector of Works/Assistant Engineer as the case may be and other consequential benefits. The transferred suit No.364/86 is accordingly disposed of on these lines with no order as to costs. This order disposes of Transferred Application No.326/86 and 364/86. A copy of this order should be placed on the case files of both these cases.



True copy
H. O. J. J.
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH,
NEW BOMBAY 400 614