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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.206/86

D.Skanda Baboo,
No.11, Anil Apartments,
Kelkar Road, Ramnagar,
Dombivili(E) 422 201
Thane Dist.

.. Applicant

vs.

1. Union of India
through
General Manager,
Central Railway,
Bombay V.T.

2. The Divisional Railway Manager,
Central Railway,
Bombay V.T.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar,
Member(A).

Appearances:

1. Mr.L.M.Nerlekar
Advocate for the
Applicant.
2. Mr.G.K.Nilkanth
Advocate for the
Respondents.

ORAL JUDGMENT: Date: 20-8-1991
Per U.C.Srivastava, Vice-Chairman

In this application the applicant has raised a grievance that he was not promoted when others were promoted and it may be declared that he is entitled to the promotion and the respondents be directed to fix his promotion on the basis that he has continued in the Grade of Rs.550-750 and he may also be considered to be eligible for promotion in that grade. Admittedly the applicant thus seeks promotion to the higher post with effect from 1st of March, 1984 though admittedly he was promoted on 1-10-1984. It has been stated today by the learned counsel for the Railway administration that he has also been promoted on 28-11-1986 to the post of Head Train Ticket Examiner.

2. The applicant was posted against the reserved post of TXR grade Rs.425-700 in the year 1972. After restructuring by the Railway Board the posts were upgraded in higher grade. Accordingly two posts were upgraded in the year 1984. The applicant being seniormost and the post being non selection post he should have been selected but he was not selected while others were selected, even though he was working for the last three years. Though it has been stated by the applicant about the adverse remarks in a cryptic matter in his application also he admitted something regarding adverse remarks. Respondents have stated that the applicant's case was also considered along with others but in view of the adverse remarks he was not promoted. We called for the records as no clear statement was made by the applicant that the adverse remarks were communicated and he preferred representation. We called for the record and from the record we found that the ~~xxx~~ x entire 1984 adverse remarks like not fit for promotion, he takes no interest in work was communicated to him and the applicant also made representation against the same. As such the plea that he was not communicated adverse remarks does not stand. Even if the rejection of the representation was not communicated to him that will not affect or change the legal or factual position. Learned counsel made a reference to the case of Gurdayal Fiji v. Union of India, AIR 1979 SC 1622. In that case it was nowhere laid down that if the rejection of the representation against the

adverse remarks was not communicated obviously the same are to be ignored and the employee concerned is to be given promotion. As such we do not find any force in this application which is dismissed accordingly. There will be no order as to costs.



(M.Y. PRIOLKAR)
Member(A)



(U.C. SRIVASTAVA)
Vice-Chairman