

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI**

CAMP AT AURANGABAD

ORIGINAL APPLICATION NO. 21 & 22/1999

FRIDAY, THE 10TH DAY OF AUGUST, 2001.

CORAM:

**SHRI JUSTICE BIRENDRA DIKSHIT, VICE CHAIRMAN
SHRI M.P. SINGH. MEMBER (A)**

O.A. NO. 21/1999

M.K. Bhalerao,
Aged about 59 years,
Flat No.181B
Shankar Chhaya Society,
Near Mhate Bridge,
Erandawana,
Pune-411 004. ... Applicant

Party in Person

Vs.

1. Union of India, through
The General Manager,
Central Railway,
Mumbai CST 400 001.
2. Divisional Railway Manager,
Central Railway,
Solapur.
3. Chief Personnel Officer,
Central Railway,
Mumbai CST 400 001.
4. Shri G.B. Chikodikar,
Dy. Station Supdt.,
Daund. ... Respondents
By Advocate Shri S.C. Dhawan with Shri R.Ravi Shetty.

O.A. NO. 22/1999

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O R D E R (ORAL)

Shri M.P. Singh Member (A)

Since the facts and the reliefs claimed by the applicant in both these OAs are similar, we dispose of these applications by passing a common order.

2. By filing the above mentioned OAs, the applicant has claimed relief by praying for direction to the respondents to consider him as Station Master in the grade of Rs.2000-3200 (Pre-revised) on regular basis from 1st March, 1993 with all consequential benefits including subsequent promotions.

3. The brief facts as stated by the applicant are that he was appointed as Traffic Signaller in the Railway on 19th November, 1962 and subsequently promoted as Station Master in the scale of Rs. 1600-2660 (Pre-revised) on 17th August, 1989. As per the Railway Board letter dated 27th January, 1993 certain Group C & B posts were restructured. According to the applicant, a modified selection procedure was prescribed by Ministry of Railways as one time exception under this scheme. It is stated by him that since a large number of candidates were considered for promotion, the criterion for the selection was seniority cum fitness. According to him, he was senior enough for being considered for promotion as his name figures

at Sl. No. 21 in the seniority list of Station Masters/ASMS/AYMS. He has also stated that his service records are good and no adverse remarks had been communicated to him at the relevant time i.e. for the period from 1990-91 to 1992-93. He has apprehended that the reason for not considering his case for promotion appears to be the pendency of the disciplinary proceedings against him at the relevant time. The disciplinary proceedings started on 16th July, 1992 and ended 22.8.1997 with imposition of minor penalty. However, it should not come in the way for considering him for promotion as there are instructions to consider a person irrespective of pendency of the disciplinary proceedings subject to the condition of sealed cover procedure. According to him minor penalty of with-holding of one increment for a period of three months with non-cumulative effect was imposed on him from 01.10.1997. Aggrieved by this he has filed this OA seeking the aforesaid reliefs.

4. The respondents have contested the application and have stated that the applicant was issued with major penalty charge sheet on 16th July, 1992. Prior to issue of charge sheet, he was placed under suspension with effect from 21st March, 1992. After completion of disciplinary proceedings, the penalty of with-holding of one increment for a period of three months was imposed on him on 22nd August, 1997. The applicant was considered for promotion but the DPC declared him as unsuitable. Even though the modified selection

procedure has been prescribed as one time exception, the post of Station Master (Rs. 2000-3200) is a selection post. It is stated by the respondents that irrespective of the fact whether DPC found the applicant suitable or not, but the fact remains that the applicant was visited with a penalty and hence he could not be promoted. In view of these submissions, the OA has no merit and deserves to be dismissed.

5. Heard both the learned counsel for the rival contesting parties. The applicant, during the arguments, drew our attention to para 3.6 of Railway Board letter No. E (D & A) 88 RG 6-21 dated 21.9.88. As per this letter, if the disciplinary proceedings against a person under suspension etc., for whom a vacancy has been reserved, is finalised within a period of 2 years of the approval of the provisional panel in the case of promotion to selection post or at any point of time in the case of promotion to non-selection post and if such a person is inflicted only a minor penalty, he should automatically be assigned the position in the selection panel suitability list and his empanelment/enlistment announced and he may be promoted in his turn. If his junior has already been promoted before interpolation of his name in the selection panel/suitability list, he should be promoted by reverting the junior most person if necessary and his pay on promotion should be fixed under the normal rules. In view of these instructions, the applicant in person submitted that although a minor

penalty has been imposed on him by the respondents, he is entitled to be placed in the higher scale of Station Master i.e. Rs.2000-3200 with effect from 1.3.1993 when the scheme of restructuring came into effect. On the other hand the learned counsel for the respondents stated that since the departmental proceedings could not be completed within a period of 2 years of the approval of the panel of 1993, he cannot get the benefit of his promotion under the aforesaid instructions w.e.f. 1.3.1993. He further submitted that the subsequent DPC after 1993 was held in the year 1995. The applicant was recommended by the DPC to be placed in the higher scale and since the departmental proceedings were concluded within a period of 2 years from the date of approval of the panel finalised in 1995, he was placed in the higher scale from 19th September, 1997.

6. After hearing both the parties and after perusal of the instruction contained in para 3.6 of the letter dated 21.9.88 it is clear that the applicant can be promoted on regular basis with effect from the date his immediate junior was promoted on the basis of panel dated 23.12.1995 finalised on the recommendation of the DPC held in the year 1995. In the present case, the learned counsel for the respondents admitted that the disciplinary proceedings were concluded within a period of 2 years from the date of approval of the panel prepared in the year 1995. The applicant is, therefore, entitled for regular

promotion from the date his junior was promoted on the basis of the recommendation of DPC in the year 1995.

7. For the reasons stated above, the OA is partly allowed to the extent that the applicant will be considered for regular promotion from 23rd December 1995. He will also be considered for promotion on the basis of his promotion to the grade of Rs.2000-3200 with effect from 23.12.1995 with all consequential benefits as per rules. The respondents are directed to complete this exercise within a period of 4 months from the date of receipt of copy of this order. Both the OAs are disposed of with the above direction. No costs.

(M.P. SINGH)
MEMBER (A)

(BIRENDRA DIKSHIT)
VICE CHAIRMAN

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