

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION. No. 744/99

Dated this, Wednesday, the 18th April, 2001.

CORAM: HON'BLE SHRI KULDIP SINGH, MEMBER (J)  
HON'BLE SMT. SHANTA SHAstry, MEMBER (A)

Shri A.J. Gonsalves,  
Safety Assistant Office of  
the Commissioner of Railway  
Safety, Western Circle, 2nd floor  
Churchgate Station Bldg. Annexe,  
M.K. Road,  
Mumbai 400 020.

... Applicant

(Applicant by Shri K.R. Yelwe, Adv.)

VS.

1. Union of India through  
The Secretary to the  
Government of India,  
Ministry of Civil Aviation,  
New Delhi.
2. The Chief Commissioner of Railway Safety,  
Govt. of India,  
Ministry of Civil Aviation,  
(Commissioner of Railway Safety)  
Ahsok Marg,  
Lucknow - 226 001.
3. The Commissioner of Railway Safety,  
Western Circle, 2nd floor,  
Churchgate Station Bldg., Annexe,  
M.K. Road,  
Mumbai 400 020.
4. Shri V.K. Koli,  
Office Supdt.  
O/o Commissioner for Railway Safety,  
Western Region, Churchgate,  
Mumbai 400 20. .... Respondents  
(Respondents by Shri V.D. Vadhavkar for Shri M.I. Sethna, Adv.)

O R D E R (ORAL)

[Per: Kuldip Singh, Member (J)]

The Applicant, Shri A.J. Gonsalves has filed this O.A.  
whereby he is assailing the Order No. 27 dated 16.11.1998  
promoting Shri V.K. Koli, Respondent No. 4 as Office

for

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Superintendent and reverting the applicant who was working as Adhoc Office Supdt.

2. The facts in brief are that the Applicant and Respondent No.4 were working as LDCs. Respondent No.4 was given promotion as UDC w.e.f. 2nd July, 1992 against which the Applicant made a representation and he was also given promotion <sup>from</sup> <sub>A</sub> 18.1.1995, but his seniority was protected as per seniority list at Annexure A-VIII.

3. The main contention of the Applicant is that Respondent No.4 be reverted and the applicant being eligible for the post may be given promotion to the post of Office Superintendent.

4. Respondents Counsel contends that as per the settled law seniority in a particular cadre does not entitle a public servant for the promotion to a higher post unless he fulfills the eligibility <sup>conditions as per</sup> prescribed by relevant rules. The Applicant did not have minimum 5 years service in the grade of Upper Division Clerk as required under the Recruitment Rules for filling up the post of Office Superintendent. Hence the DPC did not consider him fit for promotion to the post of O.S. but Respondent No.4 who was eligible and fulfilling the criteria was promoted to that post. The Applicant did not possess the qualifying service <sup>so</sup> could not be considered for promotion.

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5. We have carefully considered the arguments raised by the Learned Counsels on both sides and have perused the records available. The Applicant now prays that since as per the catch up Rules now he has completed 5 years qualifying service and hence Respondent No.4 be reverted back and he should be promoted. In our view no Rule permits for such an action that a person who ~~is~~ <sup>was</sup> fulfilling all the eligibility conditions should be reverted back and Applicant can be promoted to his place.

6. In the result, the O.A. has no merits and fails. No costs.

*Shanta S*  
(Smt. Shanta Shastry)

Member (A)

*Kuldeep*  
(Kuldeep Singh)  
Member (J)

sj\*