

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 278 of 2000.

Dated this Friday, the 13th day of October, 2000.

Shiv Narayan S. Ram, Applicant.

Shri G. S. Walia, Advocate for the applicant.

VERSUS

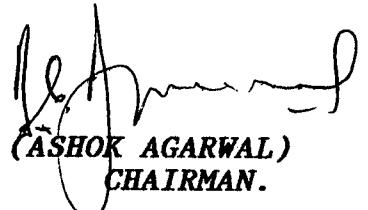
Union of India & Another, Respondents.

Shri A. L. Kasturey, Advocate for Respondents.

CORAM : *Hon'ble Shri Justice, Ashok Agarwal, Chairman.*

Hon'ble Smt. Shanta Shastray, Member (A).

(i) *To be referred to the Reporter or not ?* No
② (ii) *Whether it needs to be circulated to other Benches No. of the Tribunal ?*
(iii) *Library.* No


(ASHOK AGARWAL)
CHAIRMAN.

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CORAM : Hon'ble Shri Justice Ashok Agarwal, Chairman.

Hon'ble Smt. Shanta Shastri, Member (A).

Shiv Narayan S. Ram,
Sr. Ticket Collector,
Matunga Road,
Bombay Division,
Western Railway,

Residing at -
Gaikwad Nagar,
A.D. Railway Gate No. 2,
Chawl No. 20, Room No. 214,
Chembur,
Bombay - 400 089.

... Applicant.

(By Advocate Shri G. S. Walia)

VERSUS

1. Union of India through
The General Manager,
Headquarters Office,
Churchgate,
Mumbai - 400 020.

2. The Divisional Railway
Manager, Bombay Division,
Western Railway,
Mumbai Central,
Mumbai - 400 008.

... Respondents.

(By Advocate Shri A. L. Kasturey).

OPEN COURT ORDER

PER : Shri Justice Ashok Agarwal, Chairman.


Heard Shri G.S. Walia for the applicant and Shri A. L.
Kasturey for the respondents.

2. By the present O.A., the applicant has prayed for the
following reliefs :

"8.(a) This Hon'ble Tribunal will be pleased to declare that the Applicant is entitled to his seniority as Senior T.T.E. Senior T.C. and the punishment order dated 25-05-1989 would not have any effect on the seniority of the Applicant after the expiry of the punishment.

8.(b) This Hon'ble Tribunal will be pleased to order and direct the Respondents to promote the Applicant to the post Head T.T.E./Head T.C. in the pay scale of Rs. 5000-8000/- and fix the pay of the Applicant accordingly, with other benefits such as arrears of pay and other consequential benefits."

3. The facts leading to the filing of the application are very few and the same are as follows :-

By an order passed on 25.05.1989 in disciplinary proceedings conducted against the applicant, following penalty was imposed upon him.

"Reduction to the lower grade in scale Rs. 950-1500 (R) on pay Rs. 950/- P.M. for the period of 5 years with effect of postponing future increments."

The applicant has undergone the aforesaid penalty which accrued against him for a period of five years. After the expiry of the aforesaid period, he has not been restored to his original seniority as Sr. Ticket Collector/Senior T.T.E. in the pay scale of Rs. 1200-2000, the post which he was holding before the aforesaid penalty was imposed upon him. According to the applicant, the employees junior to him have been promoted, whereas he has been denied promotion. According to him, the aforesaid order of penalty cannot have the effect of loss to his seniority. Applicant in the circumstances, has made the aforesaid prayers.

4. In support of his claim, Shri Walia, the Learned Counsel appearing on behalf of the applicant, has placed reliance on circular no. 52-E/0/26-IVE (D&A) dated 30.03.1974 at Serial No. 6099 of the Railway Servants (Discipline & Appeal) Rules, 1968, which in so far as relevant, provides as under :-

"2. In pursuance of the discussions on the J.C.M. Departmental Council Meeting held on the 8th & 9th November, 1973 it has been decided that in cases where the penalty of reduction to a lower Service, grade or post or lower time scale is for a specified period, and the order does not specify whether it has effect on seniority and increments in the higher service, grade, post, etc., on restoration to that higher Service, grade, post, etc., it should be assumed that the order will not have the effect on seniority or increments. These instructions take effect from the date of issue of this letter."

5. In regard to the aforesaid instructions, the claim made in prayer clause 8 (a) is fully justified and deserves to be allowed. In so far as claim made in prayer clause 8 (b) is concerned, we are not inclined to entertain the same at this juncture. We, however, direct the respondents to pass appropriate order which would flow in favour of the applicant in terms of the grant of prayer clause 8 (a) as per rules.

6. The present O.A., in the circumstances, is allowed in terms of prayer clause 8(a). Respondents are directed to pass consequential orders ^{by} ^{which the applicant may become} entitled as per rules. It goes without saying that the applicant will be entitled to once again approach the Tribunal in case appropriate orders in terms of prayer clause 8(b) are not passed in his favour. No order as to costs.

Shanta Shastri
(SHANTA SHASTRY)
MEMBER (A).

Ashok Agarwal
(ASHOK AGARWAL)
CHAIRMAN.