

CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH

O.A.NO. 1169 OF 1993

TUESDAY, THIS THE 29TH DAY OF JUNE, 1999:

Shri Justice S.Venkataraman, Vice-Chairman.
Shri S.K.Ghasal, Member(A)

Laxman Lal Garg,
working as Vice-Principal,
(Now ~~now~~ Retired) Railway
Senior Secondary School,
Abu Road (Presently residing
at Block No.1, Garden View,
near National Park Gate,
Borivli (E), Bombay. .. Applicant.

(By Advocate Shri B.S.Thingore)

v.

1. Union of India
through General Manager,
Western Railway,
Churchgate, Bombay-400 020.
2. President Rly School and
Divisional Personnel Officer,
D.R.M's Office, Western
Railway, Ajmer (Rajasthan) .. Respondent.

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ORDER

Justice S.Venkataraman, Vice-Chairman:-

The applicant was promoted as Head Master in the scale of Rs.2,000-3500 and posted to Bhavnagar. The applicant did not accept the posting but sought for retention at Abu Road. As such, he was debarred from promotion for one year from 2-1-1991. The applicant took charge of the post of Principal at Abu Road from 1-8-1992 as the incumbent retired. After his retirement

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on 31-10-1992 an order has been passed down grading the post of Principal to that of Head Master in the scale of Rs.2,000-3,500/- and the applicant has been given pro-forma promotion/^{to} that post from 1-8-1992.

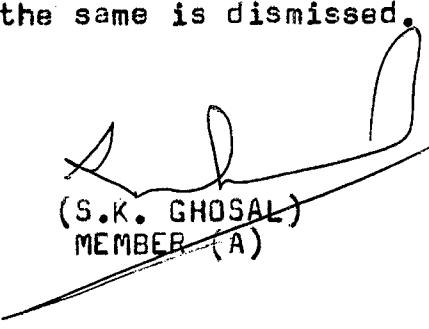
2. The learned counsel for the applicant contended that as the period of one year expired on 2-1-1992, the applicant should have been promoted from 2-1-1992 as there was vacancy and that the promotion given with effect from 1-8-1992 is not proper. Though the bar from promotion expired on 2-1-1992 it did not give a right to the applicant to insist on his promotion/^{from that date} merely because there was vacancy. It is not the case of the applicant that any one else was considered and promoted after 2-1-1992 before the date of his retirement. That apart, the respondents have stated that the applicant himself had sought for promotion to a post at Abu Road in August, 1992. Taking into consideration his request, even though he retired on 31-10-1992 the respondents have subsequently down graded the post of Principal at Abu Road and given him the promotion to the scale of Head Master. We do not think that the applicant is entitled to insist that he should have been promoted with effect from 2-1-1992.

3. Another grievance put forth by the learned counsel for the applicant is that though the applicant actually discharged the duties and functions of Principal the respondents have down graded that post instead of allowing him the salary of that post in the scale of Rs.3,000-4500. Obviously, the applicant is not

entitled to that relief. The post of Principal is higher than the post to which the applicant was eligible for promotion, even if he had been in-charge of that post he would not have been given the salary of the post of Principal. As such the respondents were fully justified in down grading that post to accommodate the applicant in that place.

4. Though the promotion order is styled as pro-forma promotion, the learned counsel for the respondents has produced the pay fixation order to show that the applicant's pay has been fixed in the scale of Rs.2000-3500 with effect from 1-8-1992 to 31-10-1992. As such he has been given the benefit of the promotion.

5. For the above reasons, this application fails and the same is dismissed.


(S.K. GHOSAL)
MEMBER (A)


(S. VENKATARAMAN)
VICE-CHAIRMAN.

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