
Date of Decision: 16.5.94.

OA 756/92
(CA 152/88)

MAHENDRA PRAKASH SRIVASTAVA ... APPLICANT.

vs.

UNION OF INDIA & ANR. ... RESPONDENTS.

CORAM:

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.
HON'BLE MR. P.P. SRIVASTAVA, MEMBER (A).

For the Applicant ... IN PERSON.

For the Respondents ... SHRI S.S. HASAN.

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Heard the applicant in person and Mr. S.S. Hasan, counsel for the respondents. The applicant was promoted vide Annexure A-1 dated 6.10.86 on adhoc basis and there is a specific order that this appointment will be subject to the decision of the Tribunal or the Supreme Court. Respondents' case is that vide Annexure R-1 dated 23.1.87 the General Manager directed that a classification of the various posts as Selection or Non-selection as a result of 4th Pay Commission is under examination of the Railway Board. Till such time the classification is decided by the Board, the posts of Mistry and Chargeman may be filled in on adhoc basis as per the existing avenue of promotion with the clear instructions to the employees that they are liable to be reverted in case they are not eligible. This order is prospective in nature. ^{No additional ~~has been introduced~~} There is nothing on record to show that decision has been taken even after the issuance of the letter dated 23.1.87 (Annexure R-1). The applicant is continuing on the post since 1986 and it will not be proper to set aside the order Annexure A-1 particularly when the respondents are not vigilant in discharging their duties by producing any order or any circular to show that the channel of promotion has been changed retrospectively, ~~or~~ They are not in a position to show that the

(19)

channel of promotion has been changed at all. Apart from that, Annexure A-2 is very clear that in future, except as stated below, vacancies in the post of Mistries in scale Rs.1400-2300 will be filled only by promotion from amongst skilled Graded Artisans, the post of Mistries being classified as 'Non-selection' post. This itself shows that this circular dated 29.9.87 is prospective in nature and it will not affect adversely the promotions already given prior to the issuance of this circular.

2. In the result, we accept this application and direct that the applicant should be continued on the post on which he has been appointed vide Annexure A-1. However, if there is any order of the Tribunal or the Supreme Court, the same will have the over-riding effect on this order, if any passed or may be passed in future.



(P.P. SRIVASTAVA)
MEMBER (A)



(D.L. MEHTA)
VICE CHAIRMAN