

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.560/95

Date of order: 5.11.1997

Khubchand : Applicant

Vs.

1. Union of India through Chairman, Railway Board, Rail Bhawan, New Delhi.
2. Divisional Rail Manager(E), Western Railway, Jaipur.
3. D.R.M Office, Power House Road, Jaipur.

...Respondents.

Applicant present in person.

None present on behalf of the respondents.

CORAM:

Hon'ble Mr.O.P.Sharma, Administrative Member

Hon'ble Mr.Patan Prakash, Judicial Member.

PER HON'BLE MR.O.P.SHAJMA, ADMINISTRATIVE MEMBER.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri Khubchand has prayed that his seniority should be fixed as per Rule No.311 of IPEM on the basis of his entry into scale 425-640 (F) as per the Tribunal's order dated 19.1.94 in O.A No.524/87 as shown in the chart, Annx.A8. He has further prayed that the applicant should be granted promotion in the scale Rs.700-900 on the basis of his correct seniority from 1.10.1984 as shown in the representation Annx.A7 dated 20.1.1995 and chart Annx.A8, with all consequential benefits.

2. The case of the applicant is that while working as Chief Ticket Inspector scale Rs.425-640 (F) in Ajmer Division he was transferred to Jaipur Division in the interest of administration and was entitled ^{to} seniority in Jaipur Division on the basis of his joining in this Division on 5.10.1984 in scale Rs.425-640. The seniority of the applicant was however ^{not} properly not fixed in Jaipur Division and about 20 persons junior to the applicant were made senior to the applicant and were also promoted to the scale Rs.550-750 w.e.f. 1.1.1984 whereas the applicant was promoted to the scale

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Rs.550-750 on 11.7.1985. Two persons junior to the applicant were also promoted to the scale Rs.700-900 earlier to such promotion granted to the applicant. This position has been set out in Annx.A8 which shows that the applicant was entitled to seniority at serial No.16A whereas he has ^{been} assigned seniority at serial No.38, making him junior to 21 persons. The persons who were promoted to the scale Rs.550-750 prior to the applicant are S/Shri Narain N and Gulab R. Earlier the applicant had filed O.A No.524/87 before the Tribunal which has disposed of by the Tribunal vide order dated 19.1.1994. The Tribunal could not give a categorical finding on the grievance of the applicant because of nonavailability of the integrated seniority list of persons in scale Rs.425-640 (F) which had not been submitted before the Tribunal either by the applicant or by the respondents. The Tribunal had directed the respondents to furnish the applicant ^{with} a copy of the integrated seniority list and granted one month's time to the applicant to show whether any persons junior to the applicant have been promoted out of the said list. The respondents furnished a seniority list as at Annx.A5 to the applicant in compliance with these directions but the applicant disputed the correctness of this seniority list also. Thereafter, the respondents issued Annx.A6 revising the earlier seniority list but according to the applicant this is also not the correct seniority list. Therefore, according to him, the Tribunal's order has not been properly implemented by the respondents. The applicant's earlier representations to the respondents have not helped him to get justice from the respondents. He has, therefore, approached the Tribunal by filing the present O.A.

3. The respondents in their reply have stated that the applicant was working on ad hoc basis in Ajmer Division in scale Rs.425-640 and therefore his claim regarding seniority in the said scale is not tenable. The applicant has already been given promotion to scale 550-750 w.e.f. 1.1.1984 due to the upgradation

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of the post and has been granted promotion to scale Rs.700-900 w.e.f. 16.12.1986. The claim of the applicant that he should have been granted promotion to the scale Rs.700-900 also w.e.f. 1.1.1984 is, therefore, untenable. While granting him promotion to Rs.550-700 w.e.f. 1.1.1984, he was given his due seniority as at serial No.17A, just below Shri Gulal Chand. The rest of the applicant's averments have also been rebutted by the respondents in their detailed reply.

4. The applicant has also filed a rejoinder to the reply filed by the respondents which is on record.

5. During the arguments, the applicant produced before us a copy of a representation dated 24.2.1997 submitted to the respondents. This is stated to have been filed in pursuance of the directions issued by the Tribunal on 11.2.1997 to the respondents to produce the records relating to the promotion on the post carrying scale Rs.425-640 (R) and fixation of seniority on the basis of such promotion. They were also directed to produce records relating to fixation of seniority in the post carrying scale Rs.700-900 w.e.f. 1.10.1984. These records have not been produced before the Tribunal. Now it is the applicant who has tried to show vide his representation dated 24.2.1997, how persons junior to him have been granted promotion ignoring his seniority and therefore justice has not been given to him. In the circumstances of the present case and after hearing the applicant, we direct the respondents to examine the applicant's representation on merits and pass a detailed speaking order thereon meeting all the contentions of the applicant within a period of 3 months from the date of the receipt of a copy of this order. If as a result of an examination of the applicant's representation on merits they find that there has been any denial of promotion to the applicant to the scale Rs.700-900 from an earlier date than the date from which it has already been granted, they shall pass necessary revision orders

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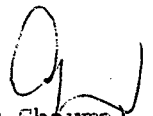
granting the benefit that may be due to the applicant and also revise his pensionary benefits accordingly.

6. A copy of representation dated 24.2.1997 has been taken on record and it shall be forwarded to the respondents alongwith the copy of this order to enable them to take necessary action as per the directions given above. If necessary before passing orders on the basis of the representation dated 24.2.1997, the respondents may grant a personal hearing to the applicant to enable him to explain the factual position in the matter.

7. The O.A stands disposed of accordingly. No order as to costs. If the applicant is aggrieved by any order passed by the respondents on his representation dated 24.2.1997, he shall be at liberty to file a fresh O.A before the Tribunal.


(Ratan Prakash)

Judicial Member.


(O.P.Sharma)

Administrative Member.