

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

.....
Date of Order : 12.7.2002.

O.A. No. 145 OF 1997

Ku. Asha Bhatnagar, Daughter of Shri R.C. Ghatnagar, aged 40 years,
Resident of A.M.C. No. 657/23, Kaiserganj, Ajmer.

.....Applicant.

versus

1. Union of India through the General Manager, Western Railway,
Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Ajmer.

.....Respondents.

.....
CORAM :

Hon'ble Mr. A.P. Nagrath, Administrative Member
Hon'ble Mr. J.K. Kaushik, Judicial Member.

.....
Mr. P.V. Calla, Counsel for the applicant.
Mr. Anupam Agarwal, proxy for Mr. Manish Bhandari, Counsel for the
respondents.

.....
ORDER

.....
PER MR. A.P.NAGRATH :

The applicant is a physically challenged person, being visually
handicapped. She was initially appointed as an Announcer in the then
existing scale of Rs. 260-400 (later revised to Rs. 950-1500 after the
IV Pay Commission and Rs. 3050-4590 after V Pay Commission). At the
time of filing of the application she had been placed in the scale of
Rs. 950-1500. Ever since her appointment, she has been working in the

.....
Y

same pay scale without further advancement. By filing this application, she seeks directions to the respondents to promote her under the In Situ Promotion Scheme w.e.f. May 1986, the date on which her junior Shri S.C. Dadlani, was promoted, with all consequential benefits.

2. In so far as the claim of the applicant to extend the benefit of promotion from the date her so called junior Shri S.C. Dadlani, is concerned, the applicant has not made any case on that account except merely making a vague assertion in Para 5.3 of the O.A. We are not inclined to dwell on this aspect of the matter. What we are required to consider in this case is, whether the applicant is entitled for In Situ promotion as per the scheme enumerated in Railway Board's letter No. E(NG)I-91/PMI/24 of 5.2.1992.

3. We have heard the learned counsel for the parties. Shri P.V. Calla, the learned counsel for the applicant stressed on this aspect that the respondents are totally ignoring the request of the applicant made from time to time while the Scheme clearly provides for In Situ promotion.

4. First on basic facts, we find that some of the statements made in the reply are not exactly in conformity with one which they have stated in different communications. It has been stated in Para 4 of the reply to the facts of the O.A. that the post of Announcer has no avenue of promotion and, therefore, the request of the applicant to "ask for promotion in the higher scale is also erroneous". As against this, there is a letter annexed at Annex. A/8 to the O.A. which is a communication from the Headquarters Office to the General Secretary, W.R.E.U. dated 3.7.1993 in which it has been clearly stated that there are three grades provided for Announcers i.e. 950-1500, 1200-2040 and 1400-2300. If, there was no avenues of promotion then, how these two higher grades exists. In fact, existence of these higher grades has been made a basis while informing the General Secretary, WREU, as to why

'In-Situ' promotion for Announcers, cannot be considered. Now, let us examine the reason given to contend that In Situ promotion is not admissible if higher grades employees in the cadre. We refer to the In-Situ promotion scheme. It says, the Scheme shall be applicable to the employees :

- "(i) Who are directly recruited to a Group 'C' or a Group 'D' post.
- (ii) Whose pay on appointment to such a post is fixed at the minimum of the scale, and
- (iii) Who have not been promoted on regular basis even after one year on reaching the maximum of the scale of such post.

The Scheme will have the following basic features :

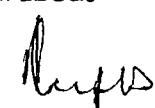
- (a) Group 'C' and 'D' employees who fulfil the conditions mentioned at (i), (ii) and (iii) above will be considered for promotion in situ to the next higher scale;
- (b) Promotion in situ will be allowed after following due process of promotion with reference to seniority-cum-suitability;
- (c) The employees will get promotion in situ to the next higher scale available to them in the normal line/hierarchy of promotion.....".

Obviously, the conditions to be specified are that the person must be directly recruited to a Group 'C' or Group 'D' post at the minimum of the scale and who had not been promoted on regular basis even after one year on reaching the maximum of the scale of such post. If these conditions are satisfied then, employees has to get promotion in 'In Situ' to the next higher scale available in the normal line. The plea of the respondents that because of occurrence of the next higher grades 'In Situ' promotion is not admissible, is faulty and on this basis, 'In Situ' promotion cannot be denied. Further, Para 2 of the same Scheme provides that if some posts have no promotional grades, the Railway Administration is required to identify such posts and necessary information relating to designation, scale of pay, recruitment qualification, duties and responsibilities etc. etc. along with suitable support for promotion scales, be given to the Railway Board in

consultation with their FA & CAO. It is clear that the Railway Board's intention is, to provide atleast one promotion 'In Situ' to all employees directly recruited in Group 'C' or Group 'D' post at the minimum of the pay scale. The respondents have already accepted that next higher scale is available but, even if, the next higher scale is not available, it is the duty enjoined to the respondents to have the necessary sanction so that the persons placed like the applicant, have the benefit of the Scheme of 'In Situ' Promotion. In fact, the applicant has also placed on record a letter dated 5.4.1993, at Annex. A/12, addressed by the Dy. Director, Railway Board to the General Manager, Western Railway, Bombay, where, a decision has been communicated to provide only one more higher scale i.e. 1200-2040 in the category of Announcers. This also goes to establish that a higher grade post is available for considering the applicant for 'In Situ' Promotion. What is only required to be seen is that, the necessary conditions laid down in the Scheme, have been fulfilled. The reply of the respondents betrays lack of sensitive-ness on the part of the dealing officers of the concerned Division, in the matter. We, therefore, consider it appropriate that the matter is dealt with at the level of Divisional Railway Manager himself.

5. For the aforesaid reasons, we direct the respondent No. 2, the Divisional Railway Manager, to consider the case of the applicant for promotion to the next higher grade of Rs. 1200-2040 (as revised after the V Pay Commission) after satisfying himself that she fulfills all the three necessary conditions as required under the Scheme discussed above. The Divisional Railway Manager, shall pass appropriate orders and communicate the same to the applicant within a period of one month from the date of receipt of a certified copy of this order. If the applicant is not satisfied with the decision, she shall be at liberty to agitate the matter before an appropriate forum, if so advised. No orders as to costs.


(J.K. Kaushik)
Judl. Member


(A.P. Nagrath)
Adm. Member

....