

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 3rd day of March, 2005

ORIGINAL APPLICATION NO. 465/2003

CORAM :

HON'BLE MR.V.K.MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR.M.L.CHAUHAN, MEMBER (J)

Bharosi Lal,
s/o Shri Chet Ram,
r/o 65/5, Shaheed Bhagat Singh Colony,
Near Nirmala School,
Kota Junction.

By Advocate : Shri C.B.Sharma

... Applicant

Versus

1. Union of India
Through General Manager,
West-Central Railway,
Jabalpur.
2. Chief Works Engineer,
West-Central Railway,
Jabalpur.
3. Chief Works Manager,
West-Central Railway,
Wagon Repair Shop,
Kota Division,
Kota.

By Advocate : Shri S.S.Hasan

... Respondents

ORDER

PER HON'BLE MR.M.L.CHAUHAN

The applicant has filed this OA thereby
praying for the following relief :

"i) That entire record relating to the case be called for and after perusing the same respondents may be directed to allow promotion to the applicant on the post of Chargeman- 'A' w.e.f. 15.12.87 in the scale of Rs.1600-2660 (5500-9000) or from the due date and thereafter further promotions on the post of Junior Shop Supt. in the

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scale of Rs.6500-10500 and Shop Supt. in the scale of Rs.7450-11500 from due date with all consequential benefits including arrears of pay and allowances.

ii) That the respondents be further directed to extend retiral benefits after due promotions by revising pensionary benefits including pension etc."

2. Briefly stated, the applicant who was initially appointed as High Skilled Fitter Grade-I in the scale of Rs.330-400 was further promoted to the post of Chargeman-'B' in the scale of Rs.425-700 vide order dated 31.3.1976 on ad hoc basis. It is further stated that his services were regularised as Chargeman-'B' w.e.f. 30.10.1976 vide order dated 1.11.1976. Shri Chandra Mohan Upadhyaya and Shri Karam Singh, who were promoted as Chargeman-'B' after the applicant and these officials were further promoted on the posts of Chargeman-'A', Junior Shop Supt. and Shop Supt., but the case of the applicant was not duly considered even for the post of Chargeman-'A' from the date when aforesaid junior persons were promoted to the higher posts. Consequently, the applicant approach this Tribunal by way of OA 437/93 and claimed promotion to the post of Shop Supt. from the date when his aforesaid juniors were so promoted. The said OA was partly allowed vide order dated 10.12.99 with the following direction;

"9. The Original Application is, therefore, allowed partly and the official respondents are directed to reconsider the seniority of the applicant in the cadre of Chargeman-'B' vis-a-vis Shri Karam Singh (R-5). Keeping in view what has been discussed in this order, especially in the preceding paragraph and if it is found that the applicant should be considered senior to the respondent No.5 in the cadre of Chargeman Grade-B, consequential

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benefits as entitled may also be extended to him. This exercise may be completed as expeditiously as possible, preferably within four months. Parties to bear their own costs."

3. In compliance of the aforesaid directions given by this Tribunal, the case of the applicant was considered on 24.3.2000 when it was found that on the basis of confidential reports/service record the applicant is not fit for promotion to the post of Chargeman-'A' and as a consequence thereof the impugned order dated 24.3.2000 was passed.

4. The grievance of the applicant in this OA is that despite his satisfactory record he has been wrongly ignored when promotion was given to his junior namely Shri Karam Singh on the post of Chargeman-'A' w.e.f. 15.12.87. Further grievance of the applicant is that in any case after March, 1992 the applicant was entitled for promotion to the next higher grade as after 1992 he has also undergone the currency of penalty which was imposed upon him. It is further stated that applicant was given ad hoc promotion vide order dated 30.6.97 i.e. one months prior to his retirement on superannuation on 31.7.97 and promotion from the earlier date was denied on the pretext that the earlier OA is pending before the Tribunal. It is on these basis that applicant has filed this OA thereby praying for the aforementioned relief.

5. The applicant has filed MA for condonation of delay as the applicant has challenged the impugned order dated 24.3.2000 (Ann.A/1) by filing OA on 8.10.2003. In the MA it has been stated that after the order dated 24.3.2000 he

approach this Tribunal by filing CP 27/2000 against the action of the respondents but the same was dismissed vide order dated 11.7.2000 (Ann.A/5) holding that the order has been complied with and no contempt is made out. It is further stated that thereafter the applicant approached the Hon High Court, Jaipur Bench, by filing D.B.Civil Writ Petition in the year 2001 and the same was registered in 2003 as D.B. Civil Writ Petition No.1938/2003 and Hon High Court vide order dated 8.7.2003 dismissed the writ petition. Thus, according to the applicant, the OA was filed within a few months from the date of dismissal of the writ petition. It is on these grounds the applicant has sought condonation of delay in filing the OA.

6. The respondents have filed reply to the MA thereby opposing the condonation of delay in filing the OA.

7. We have considered the material placed on record and we're of the view that the applicant has made out a case for condonation of delay. Accordingly, the MA for condonation of delay is allowed.

8. So far as the merit of the case is concerned, the respondents have filed reply. In the reply it is stated that pursuant to the order passed by this Tribunal in the earlier OA the case of the applicant was considered on 24.3.2000. However, he was granted the benefit of seniority but he was not found fit for promotion to the post of Chargeman- 'A' on the basis of confidential reports/service record. As such, the applicant could not be promoted w.e.f. 15.12.87. It is further stated that for

that purpose the ACRs for three years were considered and on the basis of ACRs and the service record the applicant was not found suitable for promotion to the post of Chargeman-'A'. The contention of the applicant that he is having a good service record from March, 1992 has been denied. The fact that the applicant was given ad hoc promotion with effect from 30.6.97 has been admitted but the fact that Shri Karam Singh was given promotion in the year 1993 has been denied.

9. The applicant has filed rejoinder, in which it has been stated that nothing was adverse against the applicant in the year 1987 and no adverse entry was ever communicated to him by the respondents. Thus, the applicant is entitled for promotion to the post of Chargeman-'A', Junior Shop Supt. and Shop Supt. from the date Shri Karam Singh was promoted. The respondents were permitted to file reply to the rejoinder, in which it has been stated that the ACR of the applicant was adverse in the year 1985-86 and the same was communicated to him. Copy of communication dated 3.6.85, whereby the adverse ACR was communicated to the applicant, has been annexed as Annexure R/1. The applicant also filed representation against such adverse remarks on 11.6.85, which was rejected by the competent authority vide letter dated 16.9.85. The respondents have also placed such rejection order on record as Annexure R/3. Similarly, the adverse remarks for the year 1986 were also conveyed to the applicant vide order dated 29.7.86 (Annexure R/4) and the representation against the said rejection order was also conveyed vide Annexure R/6. The respondents have also placed on record copy of the representation of the

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applicant against these adverse remarks as Annexure R/2 and Annexure R/5. The representation of the applicant against the adverse remarks pertaining to year 1986 was rejected vide communication dated 17.10.86 (Annexure R/6). The respondents have further stated that Shri Karam Singh was not promoted in the year 1993 and in fact he was further promoted in the year 1997 and the applicant was also given ad hoc promotion in the year 1997. The respondents have categorically stated that between 1987 to 1997 no promotion was made.

10. We have heard the learned counsel for the parties. In view of the material placed on record we're of the view that the applicant is not entitled to any relief. The case of applicant was considered for granting seniority as well as promotion to the post of Chargeman-'A' qua Shri Karam Singh, who was granted such promotion on 15.12.87, At the relevant time the applicant could not be granted promotion because of adverse remarks which were communicated to him and against which representation ~~were~~ also filed by the applicant and the same ~~were~~ also rejected. The applicant has not challenged those adverse remarks. In view of this, it cannot be said that the case of the applicant pursuant to the direction given by this Tribunal vide order dated 10.12.99 in the earlier OA has not been considered properly. Further, the contention of the applicant that in any case there was nothing adverse against him after 1992 till his retirement on superannuation on 31.7.97 and as such he should have been given promotion during that period, suffice it to say that the respondents have categorically stated that no promotion was made between 1987 to 1997. The

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respondents have also categorically stated that Shri Karam Singh was given further promotion in the year 1997 and the applicant was also promoted in the year 1997. Thus, from the material placed on record, we're of the view that the applicant has not made out any case for the grant of relief.

11. Accordingly, the OA is dismissed with no order as to costs.


(M.L.CHAUHAN)

MEMBER (J)


(V.K.MAJOTRA)

VICE CHAIRMAN

3.3.05