

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH, JABALPUR

O.A. NO. 158/2004

Date of Order: 6th May, 2005

S.P. Pandey, Deputy Station Manager, resident of Khitola Bazar, Sihora,
District Jabalpur (M.P.)

..... **Applicant**

By Advocate Shri V. Tripathi..

-Versus-

Union of India, Ministry of Railways, through General Manager, West Central
Railway, Near Indira Market, Jabalpur.

..... **Respondents**

By Advocate Shri M.N. Banerjee.

C O R A M

Hon'ble Mr. M.P. Singh, Vice-Chairman

Hon'ble Ms. Sadhna Srivastava, Member(Judicial)

O R D E R

Sadhna Srivastava, Member(J):-

The applicant aggrieved with the non-promotion in the scale of Rs.1600-2600 the applicant filed the OA No. 762 of 1996 before this Tribunal seeking the reliefs,

- i) to set aside the order dated 5/18.6.2003 to the extent it deprived the applicant from arrears of wages of the promotional post and,
- ii) to release the arrears of pay of the promotional post in the pay-scale of Rs.1600-2600/-/Rs.5500-9000/- from 1.3.1993 with all consequential

benefits including seniority and other attendant benefits.

2. The aforesaid OA was allowed and a direction was issued to the respondents to hold a review D.P.C. and consider the case of promotion of the applicant from the date when some of his juniors have been given promotion. In compliance of the judgment the respondents passed an order, the review D.P.C. was held and the applicant was given promotion on the post of CBS /CRS scale of Rs. 1600-2600 w.e.f. 1.3.1993, the copy of which is on the record (Annexure -3) when his junior, Shri S.R. Srivastav was given promotion. The perusal of the order dated 18.6.2003 would go to show that the applicant was not considered to be eligible for arrears. It has been stated in the order that the promotion was provisional subject to the decision of the writ petition, appeal pending in the High Court and Supreme Court. In the Counter Affidavit also the respondents have neither disclosed that what happened in the inquiry which was referred to the C.B.I. On 23.2.1993 nor any light has been thrown about the pendency of the case against the applicant. We are constrained to say that a very sketchy counter-affidavit has been filed on behalf of the respondents. In the Counter Affidavit only this much has been stated that the proforma promotion has been given to the applicant because he has not shouldered higher responsibility. In case not shouldering the higher responsibility is attributed to the applicant, then the contention of the respondents is justified but in the present case there is no such material either in the order dated 18.6.2003 or in the Counter Affidavit which could establish that the applicant is responsible in any manner in not shouldering the higher responsibility. From the pleading as well as judgment in OA No. 762 of 1996 of this Tribunal dated 13.8.2002 it appears that a decision was taken to issue the charge sheet on 1.x.1993 and the disciplinary authority has initiated certain proceeding with



reference to the letter of CBI dated 23.2.1993, but the fact remains that no charge-sheet was issued.

3. In these circumstances we are in dark about any such proceeding with reference to the letter of CBI referred above. The statement about the pendency of case in Courts in the order dated 18.6.2000 is also vague.

4. Since the applicant was not considered for promotion in view of the aforesaid CBI matter but the fate of the CBI case is not known and as such the order dated 18.6.2003 (Annexure A-3) is quashed to the extent of " He is not eligible for arrears and the above promotion order subject to the judgment of writ petition, appeal pending in High Court/Supreme Court", and the case is remitted back to the respondent no. 2 to take a decision keeping in view whether any such case is pending against the applicant and whether the applicant was responsible for not shouldering the higher responsibility.

5. With these above observations, the O.A. is disposed of. Respondent no. 2 is directed to take a decision within the period of 3 months from the date of receipt of the copy of this order. No costs.

Sadhna Srivastava
(Sadhna Srivastava)
Member(J)

m/s
(M.P. Singh)
Vice-Chairman

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