

Central Administrative Tribunal, Jabalpur Bench
Circuit Court sitting at Indore
Original Application No.253/2003

By ~~Jabalpur~~ this the 3rd day of February 2005.

Hon'ble Mr. M.P.Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Vinod Shanker Shukla,
aged 65 years, retired Principal,
R/o 108, Devra Dev Narain Colony,
Ratlam.
(By Advocate – Shri A.N. Bhatt)

Applicant

VERSUS

1. The General Manager,
Western Railway, Headquarter Office,
Churchgate – Mumbai-20
2. The Chief Workshop Manager,
Western Railway
Dahod.

Respondents

(By Advocate – Shri Y.I. Mehta with Mrs.S.H.Mehta)

ORDER

By M.P.Singh, Vice Chairman

By filing this OA, the applicant has sought the following main reliefs :-

- “ 1. The respondents may kindly be directed to grant notional promotion and proforma pay fixation from 1st September, 2000.
2. The Petitioner's pensional Benefits may accordingly be revised in light of proforma pay fixation.
3. All the settlement dues and other allied benefits arrears may kindly be directed to pay to Petitioner with interest.”

2. The brief facts of the case are that the applicant was working as Principal Group 'B' in the Railway Higher Secondary School, Dahod under the control of respondent no.1. The applicant was the senior most and due for promotion as Principal Grade 'A' on the basis of Western Railway zonal seniority. One Shri V.V.Saxena, who was working as Principal Group 'A' was due for retirement on 31.8.2000. The applicant had made a

representation to respondent no.1 for issue of necessary orders of promotion in favour of the applicant, but respondent no.1 did not take any action in spite of repeated representations. Consequent to various representations made by the applicant, the department had promoted the applicant as Principal Group 'A' at Dahod w.e.f. 30.11.2000 instead of 1.9.2000. He had retired from service on superannuation on 31.12.2000. The applicant has contended that this abnormal delay has caused irreparable loss to him in payment of his settlement dues and fixation of pension. Hence this O.A.

3. The respondents in their reply have stated that no advance action to Annexure-A-1 dated 18.4.2000 was required due to extant rule as the post of Principal Grade 'A' was to fall vacant on 1.9.2000. The relevant file is moved only on occurrence of vacancy as per normal procedure. Also under Rule 228 of the IREM, the applicant is not due for any arrears since no junior promoted before him. It is also stated by the respondents that there is no intentional but only procedural delay ~~was made to the applicant~~ in payment of his settlement dues and fixation of pension and on account of his promotion as Principal on 30.11.2000.

4. We have heard the learned counsel of both the parties and considered the rival contentions. We have also perused the record carefully.

5. It is not in dispute that the post of Principal Grade 'A' fell vacant on 1.9.2000. It is also an admitted position that the applicant was the senior most person eligible for consideration for promotion. He was also found suitable for promotion to the said post and was promoted w.e.f.30.11.2000. The respondents in their reply have admitted the fact that there was a delay in considering and deciding the promotion of the applicant to the post of Principal Grade 'A'. The Government of India, Department of Personnel & Training vide their O.M.No.22011/9/98-Estt.(D) dated the 8th September, 1998 read with O.M. Of even number dated the 13th October, 1998 issued the model calendar for DPCs and related matters [reproduced in Chapter 54 relating to 'Promotions' of Swamy's Complete Manual on Establishment and

Administration, Ninth Edition, 2003 at pages 862-867. Paragraphs 8 and 12 of the said instructions read as under :-

"3.1 Keeping the aforesaid objective in view, it has been considered imperative to provide for a time-schedule, for convening DPCs not only in time but in sufficient advance also so as to utilize the prepared panel as and when the vacancies arise during the course of the vacancy year.

7.Accordingly, for the sake of uniform procedure, it is provided that a DPC for a grade may take into account all clear expected vacancies by retirement, etc., in the concerned grade as well as chain vacancies on account of retirement, etc., in the higher grades which can be clearly anticipated in the same vacancy year.

8. As per the Model Calendar, since the DPC would be convened in the year preceding the vacancy year, the DPC may have to consider some of the officers who are to retire in the vacancy year itself. There may be similar other eventualities.....

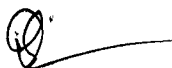
10. With a view to providing adequate time for circulation/general awareness of these instructions, it is considered desirable to make the aforesaid Model Calendar for DPCs operational with effect from April 1, 1999, in relation to the financial year-based vacancy year (2000-2001) commencing from April 1, 2000. In the case of calendar year-based vacancy year commencing from January 1, 2000, the Model DPC Calendar may take operational effect from January 1, 1999. In keeping with the decision noted in Para 9 above to adopt, on uniform basis, January 1 as the crucial date for determining eligibility, it is provided that January 1, 2000, may be adopted as the crucial date in relation to the vacancy year commencing from January 1/April 1, 2000.

12. All Ministries/Departments are requested to take note of the above clarifications/modifications of the existing instructions for wide circulation on priority basis and strict compliance so that the desired objectives of convening of DPC meetings/preparation of the approved select panels as per the aforesaid prescribed time-frame may be achieved.

The above DPC guidelines issued by the Deptt. of Personnel & Training have been adopted by the Railways.
From the above, it is clear that the DPCs are required to be convened in the year preceding the vacancy year, and all the Ministries/Departments were asked for strict compliance so that the desired objectives of convening the DPC meeting/preparation of the approved select panels as per the aforesaid

prescribed time-frame may be achieved. In the instant case, the respondent-railways have failed to follow the aforesaid instructions issued by the DOPT as it was well known fact that Shri V.V.Saxena was due to retire on 31.8.2000 and the respondents were, therefore, required to take action well in advance to finalize the DPC proceedings in respect of the applicant and ought to have promoted the applicant from the date the post of Principal Grade'A' fell vacant i. e. from 1.9.2000. Admittedly, the respondents have not taken advance action as required under the aforesaid instructions. They have also admitted the delay without giving any satisfactory and convincing reasons for the delay. In fact, the respondents should have taken advance action in considering and promoting the applicant from the due date as required under the aforesaid instructions. It can also not be said that the applicant was not fit for promotion from the due date i. e. from 1st September, 2000 as he has been promoted to that post from 30.11.2000. The stand taken by the respondents that they can initiate the action for promotion only after the post is fell vacant is not correct in terms of the aforesaid instructions issued by the Government.

6. In the result, the O. A. is allowed. The respondents are directed to promote the applicant on proforma basis w.e.f. 1.9.2000 as Principal Grade'A' and grant him all consequential benefits including pensionary benefits within a period of three months from the date of communication of this order. They are further directed to pay interest at the rate prevalent for General Provident Fund, to the applicant, on the arrears of amount payable to the applicant. No costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

rkv.