

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
Original Application No. 190 of 2001

Jabalpur, this the 22nd day of August, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman(Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

P.L. Ladia S/o Shri Kadori Lal,
aged about 61 years, retired
Chief Parcel/Booking
Supervisor, Central Railway,
Damoh, R/o Vivekanand Nagar,
Block No. MIG-48, Damoh (M.P.)

APPLICANT

(By Advocate - Shri S. Deb)

VERSUS

1. Union of India through General Manager, Central Railway CST Mumbai.
2. Chief Personal Officer (Commercial) Central Railway CST-Mumbai.
3. Divisional Railway Manager, Central Railway, Jabalpur (M.P.)

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

ORDER (ORAL)

By D.C. Verma, Vice Chairman(Judicial)-

In this Original Application, the applicant has claimed promotion in the grade of Rs.2375-3500 (Rs.7450-11,500) from 31.7.1999 and has also prayed for quashing of orders dated 28.5.1999, 9.3.2000, 25.1.2001 and 30.10.2000.

2. The brief facts of the case is that the post of Divisional Commercial Inspector (in short 'DCI') in the scale of Rs.7450-11500 was a non-selection post to be filled up on the basis of seniority-cum-suitability. As per the Railway Board's circular then existing consideration was made for promotion to the said post. The applicant along with others was also considered and orders were issued. Vide his letter dated 1.8.1998.

the applicant refused his promotion as he was transferred from the existing place to Jhansi Division. The same was accepted by the respondents. However, in the meanwhile the decision of the Apex Court in the case of Union of India Vs. Virpal Singh Chouhan, 1996 SCC (L&S) 1 came in and seniority was to be refixed without disturbing the seniority of SC/ST staff promoted prior to 10.2.1995. Accordingly, the seniority position was examined. The correction slip issued by the Railway Board on 28.2.1997 got superseded by the correction slip No. 44 dated 15.5.1998. As a result of which the zone of eligibility of SC/ST candidates vis-a-vis the general candidates was changed. Hence, staff in respect of whom the promotion order was issued, on the post of DCI, was treated as cancelled vide order dated 28.5.1999. The result was that even those who were promoted were reverted and the office order dated 12.5.1998 with regard to promotion stood cancelled. After the revision of seniority, the DPC met in October, 2000 wherein the applicant was also considered along with others. The applicant was, however, not found suitable. Hence he was not given promotion. Actually this has caused grievance to the applicant to claim his promotion with reference to the earlier promotion order dated 12.5.1998.

3. Counsel for the parties have been heard at length.

4. It is an admitted position that the seniority of the applicant even after revision of the seniority due to the decision in Virpal Singh Chouhan's case (supra) has not been disturbed. The applicant's position remained the same as earlier. The earlier selection was cancelled and many who were promoted were reverted also. When the selection was cancelled, the applicant

did not challenge the same. It is not shown that any and subsequently reverted of those who were actually promoted/ challenged the cancellation of the selection. Thus, the cancellation of the selection became final. The applicant has, in this O.A., challenged the cancellation order after expiry of the period of limitation and no application for condonation of delay has been made.

5. The learned counsel of the applicant submitted that the applicant was not communicated the order dated 28.5.1999 prior to Annexures-A-1 and A-2. Annexures A-1 and A-2 were passed by the respondents only on the representations given by the applicant. In these also the reference is that the communication was made by the respondents on 17.6.1999. Thus, the applicant's plea has ~~nomerit~~.

6. When the consideration was made in October, 2000 for promotion to the post of DCI, the applicant along with others was considered and the applicant was found not suitable for the said post. Consequently, the applicant has not been promoted. The applicant retired on 30.11.2000. If the DPC has ~~not~~ found the applicant not suitable for the post of DCI, the Tribunal cannot sit in appeal and examine the same in absence of any specific assertion to challenge the result of the DPC. The main thrust of the counsel for the applicant is that the applicant should have been promoted on the basis of 1998 selection after expiry of period of one year. The same cannot stand as the selection itself was cancelled before expiry of the said period of one year and the cancellation of selection was not challenged at any stage prior to this original Application.

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7. In view of the discussions made above, we do not find any merit in the case. The same is accordingly dismissed. Costs easy.

Anand Kumar Bhatt

(Anand Kumar Bhatt)
Administrative Member

D.C. Verma

(D.C. Verma)
Vice Chairman (Judicial)

rkv.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पत्रिलिपि अवोधित:-

(1) संघिय, उच्च न्यायालय वार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु.....के उत्तराल
(3) छज्जी श्री/श्रीमती/कु.....के काउंसल
(4) अंधपाल, टोप्रा, जबलपुर न्यायालय

सूचना एवं आवश्यक कार्यवाही हेतु

S. Deb. PCL

Mr. Banarsi PCL

Subash Kumar
उप उपराज्यकाल
9.9.03