

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

O.A.NO.198/2002

Hon'ble Sh. Sarveshwar Jha, Member (A)
Hon'ble Sh. G. Shanthappa, Member (J)

Jabalpur, this the 3rd day of November, 2003

K.G.Shukla
s/o Late Sh. Dr. V.M.Shukla .. Applicant
(Applicant in person)

vs.

Union of India through
GM, Central Railway
Mumbai CST and three others Respondents
(As per memo, of parties)
(By Advocate: Sh. H.B.Shrivastava)

O R D E R (Oral)

By Sh. Sarveshwar Jha, Member (A):

The applicant has preferred this OA against the orders of the respondents dated 20.2.2002 promoting Respondent No.4 to the senior scale and ignoring the applicant, who is senior to Respondent No.4, seniority list having been placed at Annexure A-2. The applicant has accordingly prayed that the said order may be quashed and he may be promoted with retrospective effect from 30.7.1997 with consequential benefits of fixation of pay and arrears thereof.

2. The facts of the matter, briefly, are that the applicant, who was initially appointed as Metallurgical Assistant (Direct Recruit) at PR Workshop, Central Railway, Mumbai on 27.7.1972, rose to become Laboratory Superintendent on 23.2.1973

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and further as Assistant Chemist and Metallurgist at Rail Spring Karkhana Sithouli, Gwalior w.e.f. August, 1993 on ad hoc basis. His services as Assistant Chemist and Metallurgist have been regularised vide orders dated 4th June, 1997 w.e.f. 24.4.1997.

3. The grievance of the applicant is that he should have been promoted to senior scale w.e.f. August, 1997; but he was transferred from RSK, STLI, GWL to Diesel Loco Shed, New Katni Junction and was posted by downgrading the post of C&M to AC&M with a view to harassing him by denying him promotion to the post of C&M. He has referred to assurance given by the CME, Central Railway that after completion of four years of service in Group 'B' the restoration of downgraded post will be done and the petitioner will be promoted at New Katni Junction only. The applicant seems to have represented to the authorities continuously including the Chairman, Railway Board as well as Railway Minister, but he has not received any response from them. It was, however, when his junior Sh. K.K.Soni RSK, STLI, GWL was promoted as C&M vide H.Q. Office O.O.No.57/2002 dated 20.2.2002, the impugned order, that he had to file this OA.

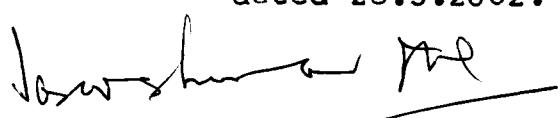
4. The applicant has submitted that the action of the respondents, despite their assurances

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given to the contrary, has been malafide, considering his seniority. He has submitted that both he as well as Sh. K.K.Soni (Respondent No.4) have completed more than four years in their respective posts, and, therefore, deserves to be promoted as C&M and posted at RSK STLI GWL. He has also referred to ^{The} instructions of Railway Board which provide that in the last two years of service before superannuation employee should be posted at his home town or nearest to his home town. In this connection, it is stated that he is having less than two years, ^{and} h should have been kept in view by the authorities for posting him at Gwalior. He has also argued that, vide the impugned order, (Respondent No.4 has been given only ad hoc promotion to the post of C&M, and the same, according to him, is illegal, as ad hoc promotion should be based on seniority.

5. Respondents have, however, submitted that promotions to senior scale/Group 'A' on regular basis are made at Railway Board's level and that the Zonal Railways are empowered to make only ad hoc arrangements in the Sr. Scale by holding DPC at the Head of Department level. The applicant was considered for promotion for Sr. Scale on ad hoc basis; but, according to the respondents, he was found unsuitable, and this position was conveyed to him vide office letter dated 28.3.2002.



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6. The respondents have further alleged that the aforesaid fact has been suppressed by the applicant in the OA. A copy of the said letter is annexed at Annexure R-1.

7. The respondents have also submitted that promotions are made on the basis of the provisions of rules and not on the basis of assurances. The applicant was accordingly considered by the DPC for promotion to Sr. Scale (ad hoc) and was not found suitable and hence not promoted.

8. The applicant has also filed rejoinder to the reply given by the respondents and has submitted that his experience as AC&M from August, 1993 to April, 1997 should have been counted for promotion to Group 'A' service, being senior most in the cadre. He has also maintained that he has never been conveyed an adverse CR from 1995-1997 and that his performance has been excellent, so much so that he was deputed to Germany and Austria for Metallurgy as well as for spring manufacturing training by the Railway Administration. He has reiterated that his seniority should have been taken into account while promoting Respondent No.4 to Group 'A'.

9. The respondents have placed before the Tribunal the DPC proceedings in which the applicant was considered along with Respondent No.4. It is observed that CRs upto the year 2000 were considered. The applicant was considered

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in the DPC, but could not be selected because he did not get the Bench Mark 'Good'. This Bench Mark had been also applied to the similarly placed cases in the DPC. While the applicant has submitted that the requirement of Bench Mark has been dispensed with vide orders of Hon'ble Supreme Court, he has not cited the relevant ~~decision~~ in the matter.

10. That being the case, and after perusing the materials on record, and after hearing the learned counsel for the respondent as well as the applicant in person, we find that the applicant has not been discriminated against in the matter of selection, and ~~as also~~ ^{The} same parameters having applied to the candidates considered in the said DPC with reference to the qualifications etc. required for the job, this OA does not deserve to be allowed.

11. With this, the OA stands disposed of as dismissed. No order as to costs.


(G. SHANTHAPPA)
MEMBER (J)


(SARVESHWAR JHA)
MEMBER (A)

/rao/

*Entered
19.11.*

पूछांकन रां. ओ/ज्या..... नवलपाल, दि.....

प्रिया

(1) रामेश्वर

..... नवलपाल, ज्या/ज्या

(2) रामेश्वर

..... नवलपाल, ज्या/ज्या

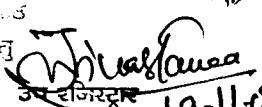
(3) रामेश्वर

..... नवलपाल, ज्या/ज्या

(4) रामेश्वर

..... नवलपाल, ज्या/ज्या

सूचना द्वय अनुमति दिली है


नवलपाल
19-11-03