

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 15 of 2001

Jabalpur, this the 25th day of March, 2004

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

Hon'ble Mr. Madan Mohan, Judicial Member

S.P. Tiwari, s/o Shri M.L. Tiwari
aged about 55 years, Senior
Accounts Officer Class I (Construction),
Central Railway, Jabalpur, r/o P-4, Sainik
Society, Sakti Nagar, Jabalpur.

APPLICANT

(By Advocate - Shri Rajendra Tiwari alongwith Shri Deepak
Panjwani)

VERSUS

1. Union of India through the
Secretary to the Indian Railways,
New Delhi.
2. The Railway Board through the
Secretary, Rail Bhawan, New Delhi.
3. Y.L. Meshram, Senior Accounts
Officer Class I (Construction),
Central Railways, Nagpur.

RESPONDENTS

(By Advocate - Shri H.B. Shrivastava)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

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

"(i) to quash Annexure-A-2 in so far as it relates to
to the name of Shri A.S. Chakravarty being placed
at No.1

"(ii) to place the name of the petitioner between 7 & 8
in Annexure-A-2 (At no. 7) to be given promotion
retrospectively w.e.f. 15.6.99 with all consequential
benefits of such promotion."

2. The brief facts of the case are that the applicant
which
is working as Senior Accounts Officer/ is a Group B post
in the Railways. He was due for promotion to Jr. time Scale in
Group-A post in the pay scale of Rs. 8000-13500. The
applicant has been considered for promotion to Jr. Scale
Group-A post by the DPC constituted by the UPSC for the



vacancies in the year 1997. However, the applicant could not be included in the panel of selected candidates. The contention of the applicant is that one Shri A.S. Chakravarty, who was the senior most officer in the consideration zone, ~~and he~~ took voluntary retirement and finally retired on 31.8.98. The DPC for selection to Jr. Scale (Group-A post) was held on 11.6.99 ^{time} ~~and~~ on that crucial date, ~~the~~ Shri A.S. Chakravarty senior most person was not in service ^{the} ~~therefore the applicant ought to have~~ ~~he~~ been considered for promotion and selected for Group-A post.

2. The respondents have filed their reply stating that " A Departmental Promotion Committee (DPC) meeting ^{was} held by the Union Public Service Commission (UPSC) on 10th and 11th June 1999 to consider selection of Group 'B' Officer of Accounts Deptt. of Indian Railways for promotion to Group 'A' / Jr. Scale of Indian Railway Accounts Service (IRAS) against promotion quota vacancies corresponding to the Examination Year 1997. There were 9 vacancies for Central Railway (8 unreserved and one SC). The applicant figured in the zone of consideration against the vacancies of Central Railway alongwith other eligible officers of Central Railway.

In the selection, no junior to the applicant was empanelled except respondent No.3 Shri Y.L. Meshram who belongs to the SC community and was selected against the reserved vacancy.

In the above selection, the cut-off date for eligibility was 1.10.1997. All officers who ^{were} eligible and in service on the crucial date of eligibility ^{were} included in the zone of consideration for promotion. However, in terms of DOP&T's OM No.22011/4/98-Estt (B) dated 12.10.1998 (copy annexed hereto as Ex. R-I), the officers who ^{were} not in service when promotions are actually made, would have no right for actual promotion. Shri A.S. Chakraborty who was selected by the said DPC, was promoted to Group 'A' Jr. Scale of IRAS

 w.e.f. 15.6.99 vide Motification No.E(GP)/98/1/57 dtd 14.7.99

as there was no information with this Ministry about his voluntary retirement w.e.f. 31.8.98. However, promotion order in respect of Shri A.S. Chakraborty ^{has} ~~the voluntary retirement~~ since been cancelled vide Notification dtd 12.3.2001 after the fact of his voluntary retirement became known to the Ministry" According to the respondents, ^{of} Shri Chakraborty was not within the year for which the DPC was held i.e. 1997-98, the vacancy so caused was carried forward and added to the promotion quota vacancies relating to the year 1998-99 for which the DPC was then yet to be held. In view of this, the OA has no merits and liable to be dismissed.

3. Heard the learned counsel for the respondents and perused the record.

4. We have very carefully considered the rival contentions advanced by the learned counsel for the respondents and material placed before us. We find that the applicant has been considered for promotion to the Jr. Time Scale of IRAS for the year 1997-98. A DPC was held in the year 1999 for preparing yearwise panel for the years 1997 and 1998. The cut off date for considering the persons eligible for promotion was 1st October 1997 and Shri Chakraborty was in service on that date. However, he retired on 31.8.98. The ~~vacancy~~ was carried forward and included in the panel for the year 1998-99 as per instructions contained in the DOPT letter dated 12.10.1998 which are as follows :-

"3. The matter has been examined in consultation with the Ministry of Law (Department of Legal Affairs). It may be pointed out in this regard that there is no specific bar in the aforesaid Office Memorandum dated April 10, 1989 or any other related instructions of the Department of Personnel and Training for consideration of retired employees, while preparing year-wise panel(s) who were within the zone of consideration in the relevant year(s). According to legal opinion also it would not be in order if eligible employees, who were within the zone of consideration for the relevant year(s) but are not actually in service when the DPC is being held, are not considered while preparing year-wise zone of consideration panel and, consequently, their juniors are considered (in their places) who would not have been

in the zone of consideration if the DPC(s) had been held in time. This is considered imperative to identify the correct zone of consideration for relevant year(s). Names of the retired officials may also be included in the panel(s). Such retired officials would, however, have no right for actual promotion. The DPC(s), may, if need be prepare extended panel(s) following the principles' prescribed in the Department of Personnel and Training Office Memorandum No.22011/8/87-Estt(D) dated April 9, 1996."

6. In this case, the applicant was considered and therefore the contention of the applicant that the DPC's recommendation should be reviewed cannot be accepted and is ~~not correct~~ and is rejected. The action taken by the respondents for preparing the panel of Jr. Time Scale Group-A post for the year 1997-98 is in accordance with Rules and is fully justified. We, therefore, find no ground to interfere with the DPC proceedings and the selection made by the respondents. The OA is therefore, bereft of merits and is accordingly dismissed.

7. At this stage Shri Rajendra Tiwari Sr. Advocate along with Shri Deepak Panjwani learned counsel for the applicant and he has been heard. The above order is not recalled.

8. No costs.

(Madan Mohan)
Judicial Member

WPS
(M.P. Singh)
Vice Chairman

SKM

पृष्ठांकन सं. ओ/व्या..... दस्तावेज़, दि.

प्रतिविधि १००५.१०.१९९८

(1) सचिव, अधिकारी विभाग, विधायक विभाग, विधायक विभाग

(2) आवेदक श्री/महिला श्री/महिला श्री/महिला R. Tiwari

(3) व्यापारी श्री/महिला श्री/महिला श्री/महिला विधायक विधायक

(4) व्यापारी, विधायक विधायक विधायक विधायक

सूचना एवं आवश्यक विधायक विधायक

HB Thivani and

*Resumed
13/4/98*

*Yessel
Tiwari*