

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 872 of 2000

Jabalpur, this the 10th day of March, 2004

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

A.K. Tiwari, Senior Clerk,
Commercial Department, DRM's
Office, Central Railway, Bhopal.

... Applicant

(By Advocate - None)

V e r s u s

1. Union of India,
through General Manager,
Mumbai CST, Mumbai.
2. Divisional Railway Manager (P),
Central Railway, Habibganj,
Bhopal.
3. Shri R.M. Sarswat, Head Clerk.
4. Shri Maheshwar Singh, Head Clerk.
5. R.K. Sharma, Head Clerk.
6. Plk. Sharma, Head Clerk.
7. Jogesh Bhatere, Head Clerk.

Sr. No. 3 to 7, Head Clerks,
Commercial Deptt. DRM's Office,
Central Railway, Bhopal.

... Respondents

(By Advocate - Shri S.P. Sinha for the official respondents
and none for the private respondents)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant
has claimed the following main reliefs :

order

"(i) Quash the dtd. 27.9.99 Annexure A-XI,

(ii) to issue a writ/direction/order in the
nature of mandamus directing the respondent 1 & 2 to
promote the applicant in the post of Head Clerk
w.e.f. 1.1.1996 in accordance with the direction/
recommendation of Railway, Board letter dtd.
17.8.98 (Annexure A-II),

(iii) to direct the respondents to give all the
benefits including arrears of pay, allowances which
the applicant has been deprived of as a result of
wrongful supersession of respondents.

(iv) to direct the respondents to consider the applicant for the vacant post of OS Gr.II in scale of 5500-9000 for which he is eligible."

2. The brief facts of the case are that the applicant was initially appointed in the Railway in Itarsi Division as Junior Clerk on 16.10.1981. According to the applicant a departmental examination was conducted on 6.2.1988. In spite of being senior most clerk the applicant was not called for appearing in the examination, whereas his juniors were called, ^{2-he was} and later on promoted to the higher grade. He has also alleged that there are 10 vacancies of Senior Clerk and the quota for direct recruit is only 20% which means only two posts ^{are} is to be filled up by direct recruitment. However against two posts, the respondents have filled up seven posts by direct recruitment. According to him one charge sheet was issued against him in 1984 and the applicant was exonerated from the charges in the year 1990. His grievance is that he was promoted to the grade of senior clerk in the year 1990, whereas he should have been considered from the date ^{been} his juniors have promoted i.e. from 6.2.1988.

3. The respondents in their reply have stated that a test for promotion to the post of Senior Clerk was conducted on 6th February, 1988. The applicant did not make any application on 1.7.1987 as alleged. He was not called for the selection as a departmental penalty proceedings were pending against him. Later on he was called for selection on 19th March, 1988 and 9th April, 1988 but the applicant did not participate. Another selection was conducted on 24th September, 1988 in which the applicant participated but could not qualify. The applicant has suppressed these facts and has claimed promotion and seniority with effect from 6th February, 1988. Hence such application is liable

to be dismissed for suppression of material fact. However the applicant has qualified later on in the suitability test and on finalisation of his departmental proceeding he was given promotion with effect from 10th July, 1990 vide letter dated 7th January, 1991.

4. None is present for the applicant. Since it is an old case of 2000, we proceed to dispose of the Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the official respondents.

5. We find in this case that the applicant is claiming promotion in the grade of Senior Clerk and he is also claiming appointment in the said grade from 6th February, 1988 i.e. the date on which his juniors have been promoted. While perusing the records carefully we find that the applicant has earlier filed an Original Application No. 339/1991 claiming the same relief i.e. promotion to the grade of senior clerk with effect from 6th February, 1988. The Tribunal vide its order dated 7th July, 1997 has held as under ;

"4. The question is whether the applicant was entitled to be considered for promotion in the year 1988. Since in the year 1988, a disciplinary enquiry was pending against the applicant, he could not be promoted in the year 1988. However, the applicant has been promoted subsequently on his passing the examination on 10.7.1990 i.e. much before the DE could be dropped. We do not find any substance in the application. It is accordingly disposed of.


We find that since the Tribunal has already considered his promotion to the grade of Senior Clerk in the earlier OA and has rejected the same, the same matter cannot be re-adjudicated by us again. Consequently, he cannot get the higher promotion to the post of Head Clerk and Office Superintendent in preference to respondents 3 to 7 as they

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are now senior to him and had superseded the applicant at the time of their promotion to the post of Senior Clerk.

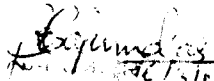
6. In view of the aforesaid, we find that the Original Application is without any merit and the same is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"


Sud. J. Chowdhury
SP S. W. H. 4


15/3/04

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