

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 18th day of September, 2009

ORIGINAL APPLICATION No.387/2005

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMINISTRATIVE)

Badan Lal,
s/o Shri Sanya Ram,
r/o Pratap Colony, near Milk Wala Baba,
Ranakpur Road, Kota,
at present working on the post of
Office Superintendent-II, under
Divisional Rail Manager, Kota.

.. Applicant

(By Advocate: Shri Ramesh Chand)

Versus

1. Union of India through General Manager, West Central Railway, Jabalpur (MP)
2. Divisional Rail Manager, West Central Railway, Kota.
3. Senior Divisional Engineer (Co-ordination) Estt. Office of Divisional Rail Manager, West Central Railway, Kota.
4. Shri Babu Lal Meena, OS-I working in the office of Divisional Rail Manager, W.C.Rly., Kota.

... Respondents

(By Advocate: Shri Anupam Agarwal)

AG

ORDER

Per M.L.Chauhan, M(J)

The applicant has filed this OA thereby praying for the following reliefs:-

- i) Allow the original application in the interest of justice and fair play and impugned may kindly be declared illegal and further by an appropriate order or direction direct to respondent No. 2 & 3 to consider the applicant for promotion to the post of Office Supdt. scale Rs. 5500-9000 from the date of his junior promoted.
- ii) Further by an appropriate order or direction to respondent No. 2 & 3 to consider the applicant for selection to the post of Chief Office Supdt. under 'A' list for reserved post.
- iii) Any other relief to which the applicant is found entitled in the facts and circumstances of the present case may please also be granted in favour of humble applicant.
- iv) The original application may kindly be allowed with cost.

2. Briefly stated, facts of the case are that the applicant was initially appointed as Clerk against physically handicapped quota. Thereafter the applicant was promoted on the post of Senior Clerk after passing suitability test on 29.4.1985 and further promoted to the post of Head Clerk w.e.f. 11.7.1985. Thereafter the respondents prepared a panel for promotion to the post of Chief Clerk/Office Superintendent-II (OS-II) vide letter dated 7.5.1993 but name of the applicant did not find mention in the said panel. Accordingly, the applicant made repeated representation dated 4.11.1993 followed by reminders and subsequent representation dated 21.9.2000. However, thereafter the respondents vide letter dated 26.3.2001

(Ann.A/11) granted proforma promotion to the applicant w.e.f. 1.3.1993 and actual benefit from the date w.e.f. 7.5.1997 followed by another letter dated 2.7.2003 (Ann.A/13) whereby name of the applicant in the seniority list was incorporated at Sl.No.7 from SL.No.34. However, subsequently the respondents have issued a show-cause notice dated 20.8.2004 (Ann.A/1) thereby stating that the applicant has been wrongly promoted on the post of OS-II in the pay scale of Rs. 5500-9000 w.e.f. 1.3.1993 ignoring claim of three senior persons mentioned in the said notice. It was further mentioned that he had not qualified the examination for the post of OS-II held on 9.5.1996 and had qualified the said examination on 7.4.1997 and seniority of the applicant was fixed at Sl.No.34 below Shri Ram Das above Shri T.K.Gautam. It is these orders, which are under challenge before this Tribunal.

It may also be relevant to mention here that apart from the grievance of the applicant regarding cancellation of his earlier promotion to the post of Chief Clerk/OS-II w.e.f. 1.3.1993, the applicant has also challenged promotion of respondent No.4 to the post of OS-I.

3. Notice of this application was given to the respondents. The respondents have filed reply thereby justifying their action. It is stated in the reply that the applicant was promoted as Head Clerk w.e.f. 11.4.1985 whereas Shri Sita Ram T. was promoted as Head Clerk w.e.f. 1.1.1984. It is further stated that Shri Sita Ram T. was senior to the applicant in the feeder cadre of Senior Clerk, as can be seen from the seniority list Ann.R/2. The respondents have further

stated that since senior persons were ignored while granting pay scale of Rs. 5500-9000~~to~~ to the applicant on the post of Chief Clerk w.e.f. 1.3.1993, thus, this mistake was rectified. According to the respondents, the applicant does not have any grievance, as admittedly three persons mentioned in Ann.A/1 who also belong to same category i.e. Scheduled Caste were ignored in promotion, as such, earlier promotion and seniority granted to the applicant was rightly withdrawn being not in accordance with law. Regarding promotion of respondent No.4 to the post of OS-I, the respondents by way of additional affidavit has placed on record a comparative statement as Ann.R/4. According to the respondents, respondent No.4 was working on the post of OS-II w.e.f. 5.2.1996 and he was transferred to Kota Division vice Smt. Sukhraj Kaur vide order dated 22.11.1996 whereas the applicant is working on the post of OS-II w.e.f. 7.4.1997/30.5.1997. Thus, according to the respondents, respondent No.4 being senior to the applicant has preferential right for promotion to the post of OS-I.

4. The applicant has filed rejoinder thereby reiterating the stand taken in the OA.

5. We have heard the learned counsel for the parties and gone through the material placed on record.

6. From perusal of seniority list dated 26.12.1986 (Ann.R/2) in the grade of Senior clerk, it is evident that name of the applicant is at Sl.No.139 whereas names of Shri Sita Ram T. and Ram Das are at Sl.No. 115 and 138 respectively. This document shows that both *val*

these persons S/Shri Sita Ram T. and Ram Das are senior to the applicant.

Further, our attention has also been invited to the order dated 13.2/3.2003 (Ann.A/12) seniority list of OS-II in the scale of Rs. 5500-9000 whereby name of Shri Bal Mukund is at Sl.No.19, name of Shri Ram Das is at Sl.No.33 and name of the applicant is Sl.No.34. From perusal of this document further reveals that Shri Bal Mukund was appointed as OS-II on 24.5.1996 whereas the applicant was appointed as OS-II on 7.5.1997. Thus, from the material placed on record, it is evident that all the three persons whose name find mention in show-cause notice dated 20.8.2004 (Ann.A/1) are senior to the applicant and the applicant was wrongly given promotion on the post of Chief Clerk/OS-II notionally w.e.f. 1.3.1993 ignoring name of senior officials.

As such, we see no infirmity in the action of the respondents whereby earlier promotion granted to the applicant vide Ann.A/11 and seniority assigned vide Ann.A/13 has been cancelled vide impugned order dated 9.10/11.2004 (Ann.A/2).

Similarly, the applicant has also not made out a case for grant of his promotion to the post of OS-I. Admittedly, the respondent No.4 is senior to the applicant in the feeder grade of OS-II. The validity of the order whereby respondent No.4 was granted promotion earlier to the applicant is not under challenge. Under these circumstances, prayer of the applicant that he be further considered for promotion to the post of Chief Office Superintendent in the scale of Rs. 7450-11500 cannot be accepted.

7. For the foregoing reasons, there is no substance in the OA which is accordingly dismissed with no order as to costs.



(B.L.KHATRI)

Admv. Member

R/



(M.L.CHAUHAN)

Judl.Member