

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-686/2013

New Delhi, this the 03rd day of November, 2016.

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. Shekhar Agarwal, Member (A)**

B.R.Meena s/o Sh. I.R. Meena,
r/o RZF/1/16, Stree No. 42B, Sadh Nagar-II,
Palam Colony, New Delhi-45. ... Applicant

(By Advocate : Sh. Yogesh Sharma)

Versus

1. Union of India through the Secretary,
Ministry of Railway, Rail Bhawan, New Delhi.
2. The General Manager,
Northern Railway, Baroda House, New Delhi. ... Respondents

(By Advocate : Sh. Satpal Singh)

ORDER (ORAL)

Hon'ble Mr. Justice Permod Kohli

The applicant was initially appointed as commercial clerk in Railway on 16.5.1977 and earned promotion upto the post of Divisional Commercial Manager (Group 'A' Junior Level Officer) and retired on 31.10.2012 on completion of 60 years of age. In the year 2005, senior scale post, i.e., Senior Commercial Manager from promotional quota were filled up. The applicant belongs to ST category. One Sh. Zile Ram was promoted against the ST category vacancy. The applicant made a representation dated 28.11.2006 alleging that Sh. Zile Ram does not belong to ST Category and had been wrongly promoted. The respondents promoted the applicant as Senior Commercial Manager on 12.06.2008 against a general post whereas the applicant's claim is promotion against the ST slot.

2. The applicant filed OA No. 2194/2008 before this Tribunal. The same was decided on 13.10.2008 with a direction to the General Manager, Northern Railway to deal with the representation of the applicant which was under consideration for a period of three months. The claim of the applicant was rejected vide order dated 25.11.08/1.12.2008. Aggrieved of the same, the applicant filed another OA No. 2767/2008. This OA was decided on 4.8.2009 with a direction to the respondents to complete the investigation in respect to Sh. Zile Ram and consider the case of the applicant for his promotion. This judgment having not been implemented, the applicant filed CP No. 72/2010. The same was disposed of vide order dated 6.4.2010 with directions for completion of investigation, notional promotions, etc. In compliance to the said directions, the respondents vide order dated 03.03.2010 promoted the applicant to the Senior Scale w.e.f 15.07.2005 against roster point No. 17 in place of Sh. Zile Ram. Admittedly, this promotion was against the ST slot on ad hoc basis. The applicant submitted another representation in July 2010 requesting the competent authority to grant him monetary benefits with effect from the date of his promotion, i.e, 15.07.2005 and also for further consideration to the post of JA grade (Group 'A'). The request of the applicant was forwarded to the Railway Board by the Northern Railway Head Quarters for consideration for induction into Group 'A' vide letter dated 18.2.2011 and 16.2.2012.

3. The applicant came to be appointed to Group 'A' Junior Scale of IRTS on regular basis w.e.f 9.7.2012. Aggrieved of the said seniority and promotion, the applicant made another representation (Annexure A-2) claiming regular promotion to Junior Scale post from the panel of 2005-06 at par with his juniors who were promoted from the panel of 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10. The applicant has placed on record Annexure A giving details of the

juniors who were promoted during the aforesaid years. This representation is still pending.

4. In the counter affidavit, the respondents have not dealt with the specific averment of the applicant, i.e, juniors having been promoted between the years 2005-06 and 2009-10. The respondents have also not dealt with the representation of the applicant (Annexure A-2). Though this matter is pending in absence of any specific reply about the factum that the applicant's juniors have been promoted during the aforementioned period, we dispose of this OA with the following directions:

- 1) The representation of the applicant, Annexure A-2, be considered in the light of Annexure-A enclosed thereto and the averments made therein, within a period of three months from the date of receipt of certified copy of this order.
- 2) If, on consideration of the claim of the applicant, it is found that the persons named in Annexure A to the representation were junior to the applicant and have been promoted ignoring the claim of the applicant, the applicant shall be accorded promotion from the date the junior most employee was promoted. In such an eventuality, the applicant shall be entitled to all consequential benefits, if not already fixed, as admittedly the applicant has worked on the promotional post on adhoc basis during all this period. His retiral and pensionary benefits shall be re-determined and paid within a period of one month thereafter.

(Shekhar Agarwal)
Member (A)

(Justice Permod Kohli)
Chairman

/ns/