

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA 1921/2011

the 16th day of September, 2015.

**Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P.K.Basu, Member (A)**

R.C.Punia
R/o E-181, Kalkaji
New Delhi
Currently posted as Member (Technical)
Railway Claims Tribunal
Ahmedabad, Gujarat Applicant

(By Advocate: Shri Vikrant Yadav with Shri Yogesh Sharma)

VERSUS

Union of India through
Secretary
Railway Board
Rail Bhawan
New Delhi – 110 001 Respondent
(By Advocate: Shri Rajinder Nischal)

Order (Oral)

By Hon'ble Mr.Justice Syed Rafat Alam, Chairman

In the instant application filed under Section 19 of the A.T.Act, 1985 the applicant is aggrieved by inaction on the part of the respondent in not deciding his representation for giving promotion to the post of Higher Administrative Grade which became due to him in 2009 and, therefore, has sought the following reliefs :-

- “(i) Pass an order declaring the action of the respondent in not promoting the Applicant to Higher Administrative Grade from Senior Administrative Grade for the vacancy year 2009-2010 and 2010-2011 as arbitrary, discriminatory and thus illegal and
- (ii) Pass an order directing the respondents to grant promotion to the applicant to the post of Higher Administrative Grade w.e.f.1.4.2009 with all consequential benefits of pay, allowances and seniority; and
- (iii) Pass any other further orders/directions as may be deemed necessary and fit in the facts of this case.”

2. The learned counsel for the applicant submitted that the respondent perhaps have not considered his claim for promotion by misinterpreting the DOP&T Circular dated 16th June, 2003, copy whereof is annexed at annexure A-3 to the application. He further submits that DOP&T vide its aforesaid circular has done away with the requirement of having minimum service of three months before retirement for consideration of the claim for promotion, as provided vide its earlier circulars dated 11.09.1989 and 25.01.1990. He, therefore, submits that respondents are not justified in not considering his claim for promotion. He submitted that the respondent may be directed to examine the claim of the applicant for grant of such promotion from the due date and also to give consequential benefits.

3. On the other hand, Shri Rajinder Nischal, learned counsel for the respondent submits that applicant has already retired from service in October, 2010 and his representation dated 15.06.2010 is not yet disposed of. He further submits that the same would be examined and decision would be taken in accordance with law expeditiously. He, agreed for disposal of the Application at this stage, with direction to the respondents to examine his representation and take appropriate steps accordingly. It is further stated by Shri Rajinder Nischal that earlier minimum one year was required for claiming such promotion which was later modified to three months, and that too was also waived vide DOP&T circular dt. 16.06.2003.

4. In view of the submissions made and also in view of the fact that the representation of the applicant for grant of promotion is still pending before the respondents, without going into the merits of the case, we direct the respondents to examine the aforesaid representation and take appropriate decision expeditiously. Though, it is true that promotion cannot be claimed as a matter of right, yet when it becomes due and there is no legal impediment, the respondents are required to consider the same and take decision and they

just cannot keep sitting over the matter. The respondent shall take decision on the representation of the applicant within three months from the date of receipt of a copy of this order.

No costs.

(P.K.Basu)
Member (A)

(Syed Rafat Alam)
Chairman

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