

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO.2455/2003

New Delhi, this the 19th day of August, 2004

**HON'BLE SHRI V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)**

Hari Prasad,
S/o Shri Man Singh,
R/o House No.201, B-1, Tuglakabad,
(By Advocate: Shri M.K. Bhardwaj)

...Applicant

versus

Union of India and Ors through :

1. The General Manager
Western Railway,
Mumbai.
2. The Divisional Railway Manager,
DRM Office, Western Railway, Kota Division,
Kota, Rajasthan.
3. Sr.Divisional Electrical Engineer,
Electric Loco Shed (TRS), Western Railway, Tughlakabad,
New Delhi.
4. Om Prakash,
S/o Shri Arjun Singh,
Technician Gr.I, Through Sr.D.E.E.,
Electric Loco Shed (TRS), Western Railway, Tughlakabad,
New Delhi.
5. Shri Satya Pal Singh,
S/o Shri Subedar Singh,
Technician Grade I, Through Sr.D.E.E.,
Electric Loco Shed (TRS), Western Railway, Tughlakabad,
New Delhi.

...Respondents

(By Advocate : Shri Rajinder Khatter)

ORDER

SHRI SHANKER RAJU, MEMBER (J) :

Applicant impugns respondents' order dated 9.8.2003 rejecting his claim for promotion to Technician Grade-I from the date his juniors have been accorded the same. The applicant has prayed for the promotion with all consequential benefits.

2. Briefly stated, applicant, who joined as a Khallasi, on qualifying the trade test was appointed as Electric Grade III in 1987. A test was conducted in the year 1993 for promotion to the post of Electric Fitter Grade II which applicant qualified on 10.5.1994. Seniority list issued shows the name of the applicant at serial No.44 and two other persons S/Shri Om Prakash and Satya Pal Singh juniors to the applicant in Seniority List at Serial No.53 and 54 respectively. Applicant's promotion was cancelled vide respondents' order dated 24.5.1994 which resulted in filing of OA No.2677/1996 wherein by an order dated 1.5.2000, respondents have been directed to provide adequate notice to the applicant and to pass orders with regard to seniority in the post of Electric Fitter Grade -III till then the applicant was allowed to work as Fitter Grade II as per promotion order dated 10.5.1994.

3. In compliance thereof vide an order dated 11.10.2000 holding seniority intact w.e.f. 7.2.1987 in Grade III, applicant's promotion to Electric Fitter Grade II was restored and he was given proforma promotion from 10.5.1994 and 29.1.1998 with actual payment from the later date.

4. Applicant represented for promotion to Grade I, when the same was not given any heed to by the respondents, he also filed OA No.1550/2003, which was disposed of vide order dated 20.6.2003 with a direction to the respondents to dispose of the representation of applicant. In pursuance of the directions of this Tribunal in the said OA, the respondents have considered the representation of the applicant and rejected the same. Aggrieved by rejection of his request, applicant filed the present OA.

5. Learned counsel of applicant states that once by an order dated 11.10.2000 applicant's seniority has been restored from 7.2.1987 and

promotion from 10.5.1994 in Grade II, applicant should have been considered for promotion to Grade I post, whereas juniors to applicant, who had been promoted later on in Grade II, were promoted to the post of Grade I is violative of Articles 14 and 16 of the Constitution of India.

6. In the reply, Shri Rajinder Khatter, learned counsel of the respondents contended that applicant who were earlier given wrong seniority in the pay scale of Rs.750-940, his seniority was fixed from 7.2.1987 and as the juniors of the applicant as alleged have been appointed earlier as Khallasies, the seniority accorded to applicant is correct. It is further stated that applicant was by mistake was subjected to trade test in the grade of Electric Fitter Grade II. Accordingly, this has been rectified and applicant would get his promotion in due course.

7. On careful consideration of the rival contentions of the parties, we are of the considered view that although the seniority of applicant was corrected from 7.2.1987 his promotion, which had been cancelled by an order dated 24.5.1994, was resorted to him in Grade II by respondents order dated 11.10.2000. Accordingly, the current position is that the applicant in Grade II is senior to the persons who had been appointed later on in the grade. Accordingly, for consideration of Fitter Grade II, the aforesaid aspect cannot be overlooked and once the respondents have resorted to the promotion of the applicant in Grade II from 10.5.1994 they are estopped from taking a contrary view as to the seniority of the applicant. Moreover, on this restoration of the seniority, applicant has already acquired his position by promotion from 10.5.1994 which has been found in order resulting in withdrawal of order dated ^h 24.5.1994, the respondents are precluded from taking a contrary stand and

are bound by equitable principle of promissory stoppel. Accordingly, OA is partly allowed. Impugned order is quashed. Respondents are directed to consider applicant's case for promotion to the post of Electrician Grade I from due date with accord of consequential benefits within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju

(SHANKER RAJU)
MEMBER (J)

V.K. Majotra

(V.K. MAJOTRA)
VICE CHAIRMAN (A)

14.8.04

/ravi/