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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2621/2003

This the 7th day of October, 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Asit Kumar S/O Bimal Kumar,
R/O House No.B-68, Lajpat Nagar,
Kasturba Niketan,
New Delhi.

... Applicant

(By Shri Ravi Kant, Advocate)

-versus-

1. General Manager,
Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Baroda House, New Delhi.
3. Divisional Works Officer,
Northern Railway, New Delhi.
4. Shri Bhupender Singh,
R/O 39-A/3, Sri Ram road,
Railway Quarter, Delhi.
5. Lal Singh,
R/O 272-B, Railway Quarter Sectory,
Near Kodia Pul, Delhi.

... Respondents

(None present)

ORDER (ORAL)

Hon'ble Shri V. K. Majotra, Vice-Chairman (A) :

As none has appeared on behalf of the respondents, we have
proceeded to adjudicate upon this OA in terms of Rule 16 of the
Central Administrative Tribunal (Procedure) Rules, 1987, taking into

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consideration the respective pleas, material on record and after hearing the learned counsel of applicant.

2. Applicant has assailed Annexure A-1 dated 14.11.2002 whereby respondents have rejected applicant's claim for seniority from the date of promotion of his juniors. He has sought quashing of Annexure A-1 with all consequential benefits including seniority.

3. The learned counsel of the applicant stated that applicant who joined Railway service in Khalasi grade in Delhi Division on 28.10.1974 was promoted to the grade 'C' in 1983 and then to grade 'B' in 1996. He further stated that although applicant had become due for promotion to the post of Technician Grade-I, he was promoted as such w.e.f. 1.5.2001 vide order dated 3.8.2001 and posted to Tughlakabad. However, the respondents never informed him about his promotion to the post of Technician Grade-I and posting at Tughlakabad. After he learnt about his promotion, he made a representation Annexure A-2 dated 7.10.2002 for grant of seniority from 1.5.2001. He was allowed to join on the post of Technician Grade-I at Delhi on 21.11.2002. Learned counsel of the applicant also relied on 2002 (1) ATJ 236: **Naresh Kumar Malik v. Union of India & Ors.**

4. On the other hand, the learned counsel of respondents stated that while applicant's juniors who were promoted along with applicant as Technician Grade-I vide the same orders joined their

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respective posts on promotion, applicant deliberately did not go to Tughlakabad to join on the higher post. Subsequently, one post was temporarily transferred from Tughlakabad to Delhi Loco Shed with the approval of the competent authority and the applicant was accommodated and he joined on that post on 23.11.2002 in pursuance of respondents' letter dated 21.11.2002 (Annexure R-1). The learned counsel pointed out that the individuals are not informed about their promotions. Only the senior subordinate in-charge of the concerned are informed. In the case of the applicant, the promotion orders dated 1.5.2001 were informed to the Loco Foreman, Delhi. Many others along with the applicant included in the promotion orders who were posted at Loco Shed Delhi were transferred to other stations. Everyone excepting the applicant joined the places of their posting on promotion. Applicant cannot take exception to the general practice. It appears that he wanted to avoid going to Tughlakabad and later on made non-receipt of the orders of posting an excuse for claiming seniority and other benefits.

5. Applicant has not filed any rejoinder to the counter reply filed on behalf of the respondents. As such, no objection can be raised to the practice of the respondents for bringing promotions to the notice of the concerned senior subordinate, Loco foreman, Delhi, in the applicant's case. It is found that many personnel posted under Loco Foreman, Delhi were transferred out on promotion. No *mala fide* has been alleged and established against the respondents including applicant's senior subordinate. If others covered under the

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promotion and posting orders could receive information about their promotion and transfer and take charge at the new places, there is no reason why the applicant could not have received information and acted upon the same. The rules and practice of informing the individual persons about their promotion/posting not being *in vogue* cannot be made a ground for seeking retrospective benefits. The decision in the case of **Naresh Kumar Malik** (supra) is not applicable to the applicant's case as the facts in both cases are distinguishable. In the case of **Naresh Kumar Malik**, he was not spared for joining at the new place on transfer due to delay on the part of the respondents. It was held, when the employee was not spared for administrative reasons, he should not be made to suffer. In the present case, applicant had not been detained at the previous station for administrative reasons. While a uniform practice was followed for informing the concerned about their promotions and placements and while several other colleagues of the applicant working in the same department joined on promotion their places of transfer, applicant did not. Delay in joining on promotion at the new station in the present case cannot be attributed to the respondents. As such, applicant is not entitled to claimed benefits.

6. Accordingly, this OA is dismissed being devoid of merit.

S. Raju
(Shanker Raju)
Member (J)
/as/

V. K. Majotra
8/10/04
(V. K. Majotra)
Vice-Chairman (A)