

SUPREME COURT OF INDIA

Lakshmi Narayan

Vs.

Union India

(N.P. Singh and K. Venkataswami JJ.)

02.12.1996

JUDGMENT

VENKATASWAMI. J.

Leave granted.

The third respondent Govind sahai was promoted by a order dated 24.4.1976 as Diesel Foreman. Aggrieved by that, the appellant challenged that order of promotion by filing Writ Petition (Civil) No. 153 of 1978 in the High Court of Rajasthan which was subsequently transferred to the Central Administrative Tribunal and numbered as T.A.No. 359/86. According to the appellant, the said govind Sahai was junior to hm as Diesel Chargeman 'C' Grade and the promotion of the said Govind Sahai overlooking seniority of petitioner was liable to be quashed.

The Tribunal while noticing the admitted position that prior to 1969, the third respondent was junior to the appellant found from records valid reasons for overlooking the claims of the appellant. The Tribunal after noticing the relevant factor observed as follows:- Admitted position is that Govind Sahai was promoted in 1969 as Chargeman on the reversion of the applicant and the applicant was again promoted in 1970 and he was again reverted and subsequently he was promoted in 1972. Naturally, Govind Sahai who was junior entered the Higher grade in 1969 and continued to hold the same, eventually the length of service of higher grade will have to counted. It was not stop-gap arrangement but it was on the action of reversion of the applicant that Govind Sahai was promoted. The promotion of Govind Sahai of Higher post on 24.4.1976 is also good as he was holding the post of the Chargeman from 1969 whereas the applicant was holding the post from 1971. So, naturally, Govind sahai was entitled for promotion earlier than the applicant and there is nothing wrong in it."

It is also seen from the records that as early as in 1976. The representation made by the appellant to treat him as a senior to Govind Sahai was rejected by the Railway Board in their communication no RB/OSD/ER/279/96/Aii dated 4.5.1976. The said communication inter alia reads as follows:-

He (the appellant) was assigned seniority with reference to date of his joining the working post in terms of orders contained in Railway Board's letter No. e(NG) 60 SR 6/2 of 16.11.1961 according to which seniority of direct recruits and rankers in the vacancies arising on and after 16.11.1961 is to be fixed with reference to the date of joining the working post in the case of former and the date of promotion in the case of latter subject to the condition that the inter se seniority of the staff in the

respective group is not disturbed. He was promoted to scale Rs. 250-380 (A) with effect from 22.6.72 and prior to this he was promoted twice and on both the occasions he was reverted due to unsatisfactory work and accordingly he lost seniority over those who were promoted during the period he was not considered suitable for promotion.

(Emphasis supplied)

It is also seen from the records that the appellant was not successful in challenging his earlier reversions. It is also not shown that the appellant has successfully challenged the Railway Board's communication dated 4.5.1976. In spite of the above clear position, the appellant who appeared in person repeatedly argued challenging his reversions in the year 1969 and 1971. We do not think that we can entertain that argument to challenge the promotion give to the third respondent, particularly, in the light of Railway Board's communication dated 4.5.76 in which the appellant was clearly informed that he has lost his seniority to said govind Sahai. In the circumstances, we do not find any substance in the appeal and the same is dismissed accordingly. However, there will be order as to costs.