

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH



O.A.350/1124/2018

Date of Order: 26.5.2018



Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Raghunath Banerjee, S/o Late Ramprasad Banerjee, aged about 62 years, retired as Canteen Manager Grade-II, Eastern Railway, residing at Village- Chunavati, Chandrabati Village Road, Near Saraswato Goudyo Math, P.O. Podra, P.S. Sankrail, Dist Howrah- 711109.

.....Applicant

Vrs.

1. Union of India, through the General Manger, Eastern Railway, 17, Netaji Subhas Road, Fairlie Place, Kolkata-700001.
2. Chief Personal Officer, Eastern Railway, 17, N.S. Road, Fairlie Place, Kolkata-700001.
3. Senior Personnel Officer (W & IR), Eastern Railway, 17, N.S. Road, Kolkata-700001.

.....Respondents

For the Applicant(s): Mr. C.Sinha, Counsel

For the Respondent(s): Mr. P.Bajpayee, Counsel

ORDER

Bidisha Banerjee, Member (J):

Ld. Counsels were heard and record perused.

2. This application has been preferred to seek the following reliefs:

"a) To set aside and quash the Impugned Memorandum No. E.178/W/Canteen/Court Case dated 24.02.2017 issued by the Chief Personnel Officer, Eastern Railway.

b) To direct the respondents to grant promotion to the applicant to the post of Canteen Manager-II w.e.f.

12.02.2014 and Canteen Manager-I w.e.f. 12.02.2016 with all consequential benefits as the said posts were lying vacant at that point of time.

- c) To direct the respondents to grant additional remuneration in favour of the applicant on and from 29.04.2011 till 30.04.2017 from shouldering the higher responsibility attached to the post of Sr. Canteen Manager according to the guidelines framed by the Railway Board.
- d) To direct the respondents to recast the pension and other settlement dues of the applicant on the basis of the fixation on promotion so granted.
- e) To direct the respondents to grant interest @ 10% on the arrears so granted."

2. This is the fourth journey of the applicant to this Tribunal. In an earlier application, numbered O.A. 1480 of 2015, this Tribunal had ordered as under:

"16. Going by the above rulings of the Hon'ble Apex Court and the Rules of the Railways, cited supra we are of the firm view that relaxation of the recruitment rules by the General Manager acting in a single level so as to make a person, who was not even holding the feeder post of promotion, eligible for promotion is not legal in any manner. Hence, the promotion of Respondent No.6 to the post of Assistant Canteen Manager is held to be illegal and is accordingly quashed/set aside. As a consequent, all the subsequent orders of the promotion of Respondent No.6 to Canteen Manager Gr.II, Canteen Manager Gr. I and Senior Canteen Manager are quashed and set aside. Resultantly, the post of Canteen Manager, Gr. II will fall vacant on 28.09.2010, Canteen Manager Gr.I on 22.4.2013 and Senior Canteen Manager on and around 22.04.2015."

17. We think justice would be met, if accordingly, the Respondents are directed to consider promotion of the Applicant to the posts of Canteen Manager, Gr.II and Grade I strictly as per Rules provided he is found eligible.

Also as the applicant was looking after the responsibility of Shri G.C.Ghosh, Senior Canteen Manager from 29.04.2011, the Respondents shall also consider whether additional remuneration as per rules may be given to him. The ACP and MACP benefits are not additional remuneration. Obviously if he gets the promotions then as per Rules, the grant of ACP/MACP benefits will stand modified.



The entire exercise shall be completed within a period of four weeks from the date of receipt of a certified copy of this order as the applicant is due to retire on 30.04.2017."



3. The speaking order dated 24.02.2017, issued pursuant to the aforesaid direction, is under challenge in the present O.A.
4. A bare perusal of the order demonstrates that the CPO has duly applied his mind on the issues directed to be considered by this Tribunal and has come to a conclusion on the eligibility of the applicant as the impugned order reflects.
5. We would further note the subsequent order dated 30.04.2018 of the Hon'ble High Court, in WPCT No. 155 of 2017, Raghunath Banerjee Vs. Shri Ghanashyam Singh & Ors., referred to as the "Third W.P.", records the following:

"The Third W.P. stands dismissed.

This order will not, however, stand in the way of filing fresh application before the competent forum of law by the petitioner in the Third W.P., namely, Raghunath Banerjee, substantiating his case for eligibility as per Rules."

The impugned speaking order is extensive on the right of the applicant.

6. In the present case, the applicant has sought for benefit of RBE 189/2006, i.e. officiating pay, and para 214 (c)(i) of the IREM but has evidently failed to seek benefit from the respondents before approaching this Tribunal.
7. No case for interference is therefore made out.
8. Accordingly, the O.A. is disposed of with liberty to the applicant to prefer representation, if he is so advised, to seek benefit of RBE 189/2006 etc., at the

earliest, which if preferred shall be duly considered and disposed of in accordance with law within a reasonable period. No costs

(Dr. Nandita Chatterjee)
Member (A)



(Bidisha Banerjee)
Member (J)

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