

(23)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.1087/88

New Delhi, this the 1st April, 1994.

HON'BLE SHRI C.J.ROY, MEMBER (J)

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (A)

Shri D.N.Shukla,
Chief Traction Foreman,
Railway Electrification,
Bhopal (M.P.)

(By Shri BS Maines, Advocate)

..Applicant.

Vs.

Union of India: through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Divisional Railway Manager,
Northern Railway,
Allahabad (U.P.).

3. Chief Project Manager,
Railway Electrification,
Bhopal (M.P.).

(By Shri K.K.Patel, Advocate)

..Respondents.

ORDER

Hon'ble Shri P.T.Thiruvengadam, Member (A)

The applicant was appointed as Work Supervisor in the grade Rs.130-212 with effect from 6-12-1961 in Railway Electrification Organisation against a temporary post. In the same organisation he continued to get further promotions and on the date of filing the O.A. he was functioning as Chief Traction Foreman in the grade of Rs.840-1040 with effect from 20-7-1987. The railway electrification being a project organisation cannot provide lien to the staff recruited locally. Hence, Railway Ministry decided in the year 1966 that such staff should be put through a nominated Screening Committee and the staff provided suitable lien in Open Line Divisions. Accordingly, the applicant was found suitable for a post in grade 130-212 as Mistry

and was allocated to Allahabad Division. His seniority was thus reckoned in this Division and he was called for further promotions to the grade of 150-240, and Rs. 425-700 (PR)/Rs. 1400-2300 (RPS). In Allahabad Division he was given seniority as Electrical Chargeman in grade (RPS) Rs. 1400-2300 based on his selection in the year 1983. In further seniority list his position was shown accordingly. The applicant had been aggrieved by this seniority position and had been representing to the respondents. By letter dated 8-2-1988 (An.1), Respondent No.2 had finally rejected the representation. Aggrieved by this, the applicant has filed this O.A. praying that the respondents should be directed to assign him seniority with effect from 26-10-1963 that is the date on which he was locally posted as Elec. Chargeman in the Railway Electrification Organisation.

2. The main contention of the applicant is that even though the Railway Board instructed screening of the employees of railway electrification organisation for the purpose of providing lien in the open line division as early as 1966, the applicant was screened only in the year 1971. The respondents however argued that the applicant was originally screened in the year 1966 itself against non-technical post. The applicant appeared in the screening and expressed his unwillingness for the post. He wanted to be considered only for absorption in electrical department. Hence, he was called again for screening in the year 1971 when he was found suitable for the grade Rs. 130-212. The 1d. counsel for the applicant then argued that as per the screening held in 1971 the applicant was to be absorbed as Mistry in the grade Rs. 130-212 (AS). However, in Allahabad Division (TR-D) there was no post of Mistry in grade of Rs. 130-212 as out of the available grades of Rs. 130-212 and Rs. 150-240 for Mistris, only the higher grade was being operated. It is the contention

of the applicant's counsel that the applicant should have been given the benefit of lien in the grade of ~~Rs. 150-240~~ but it was found that the post of Mistry was not available in the lower scale. This consideration was particularly called for since the applicant in ~~Re~~ ~~TR-D~~ Organisation was in a much higher grade by that time. ~~TR-D Organisation~~

3. On the other hand, the respondents argued that on coming to know of the non-availability of Mistry's grade ~~Rs. 130-212~~ ultimately the Northern Railway H.Qrs. ordered that the lien of the applicant may be fixed in the highly skilled grade of 130-212. Reference was invited to General Manager's letter (An.A-13) dated 3-4-81 which reads as under:-

"The lien of S/Shri DN Shukla and Rajan Murthy has been fixed highly skilled grade I ~~Rs. 130-212(AS)~~ on Allahabad Division." ~~380-560(RS)~~

4. The ld. counsel for the applicant pointed out that there was some discrepancy in the equivalent grades and the scale of Rs.380-560 should correspond to ~~Rs. 150-240~~ and not ~~Rs. 130-212~~. Be that as it may, the applicant was called for appearing for further promotion in the grade ~~Rs.380-560~~ in 1977 as per An.A.17 of the application. He was also further called for selection for the post of Elec. Charge man in the higher grade of ~~Rs. 425-700~~. Hence, the respondents contend that having ~~acquired~~ apprised in all these promotions the applicant is estopped from raising the issue regarding fixation of his lien. He also knows that even at the initial stage when the applicant's lien was fixed in Allahabad Division in the grade 130-212 vide General Manager's letter dated 20-4-76 (An.A.10) it has been mentioned that the applicant should seek his promotion to grade 150-240 based on his related seniority. On the face of this provision as well as the fact that the applicant submitted himself to further promotion to the grade ~~150-240~~

in the year 1977 as well as in the grade 425-700 in the year 1983, we are not convinced that the applicant ~~had any ground~~ raised the issue of non-availability of the post of Mistry in the grade 130-212 at the time he was screened. We also note that the Headquarters' office had decided that the lien of the applicant would be fixed in the grade 130-212 (AS) as per their letter dated 3-4-81 mentioned supra.

5. The applicant then relied on a letter written by ~~Railway executive~~ ^{the M.R.B.} authorities (letter dated 21-5-76-
An.A.11) recommending the absorption of the applicant in the scale Rs.150-240 with effect from 7-8-1971. It has been mentioned that railway electrification organisation certified that the applicant is fit for promotion to this scale. We are not impressed by these recommendations since promotions in railway electrification cannot have any bearing on the seniority position in the division in which the lien is provided.

6. Our attention was drawn by the 1d. counsel for the respondents to the order passed by this Bench in O.A.1038/88 decided on 21-10-93. The applicant therein has been similarly situated, having joined the railway electrification organisation directly and having secured a number of promotions there. The applicant was also screened in the year 1971 for the purpose of provision of lien and like the applicant in this O.A. was provided lien in Allahabad Division as Mistry in the scale 130-212. The prayer in O.A.1038/88 is also similar to the prayer in this O.A. and in the order passed the O.A.1038/88 was dismissed on merits as well as being barred by time. In view of this, we do not find it necessary to go into various other points raised which are already being covered in O.A.1038/88.

7. In the facts and circumstances, we hold that the present application is devoid of merits and is accordingly dismissed leaving the parties to bear their own cost.

P.J.Thiru
15/4/94
(P.T.THIRUVENGADAM)
Member(A).

G.S.Roy
15/4/94
(C.J.ROY)
Member(J)

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