

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00012/2021

Date of Order: This, the 12TH Day of January, 2021

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)



Sri Ruhi Das Basak (61 Years)
S/O Late Sreedam Chandra Basak
R/O Halflong Road, Pike Para
Near ASEB, P.S. & P.O.-Lumding,
Lumding-782447, District-Hojai, Assam

... Applicant

- Versus -

1. **The Union of India**
Represented by the Secretary
Ministry of Railways, Rail Bhawan
Rafi Marg, New Delhi-110001.
2. **Railway Board**
Represented by the Chairman of the
Board, Rail Bhawan, Rafi Marg
New Delhi-110001.
3. **General Manager**
Office at N.F.Railway, Maligaon,
Guwahati-11.
4. **Divisional Railway Manager(P)**
N. F. Railway, Lumding Division,
Lumding-782447.

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5. **F.A & C.A.O.,**
N.F. Railway, Maligaon Head office
Maligaon, Guwahati-781011.

...Respondents.

For the Applicant : Sri N.B. Singha &
Sri Chandra Kalita

For the Respondents : Ms. U. Das, Rly. Advocate

ORDER (ORAL)



MANJULA DAS, MEMBER (J):-

This matter has been taken up through video conferencing.

2. This O.A. has been preferred by the applicant under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:-

“8.(i) Set aside and quash the letter / Order dated 26.03.2019 passed by the Respondent No.4 by which the prayer of the applicant for promotion to Sr.Tech/FPO while in service was rejected.

(ii) Direct the Respondent authorities to grant promotional benefit of Sr. Tech/FPO to the Applicant after retirement.

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(iii) Direct the Respondent authorities to grant arrears or any benefits in terms with the promotional benefit to the applicant.

(iv) Direct the Respondents No.5 to make necessary correction in the Pension payment order of the Applicant.

(v) That any other reliefs to which the applicant is found entitled to may also be granted accordingly."

3. The brief facts narrated by the applicant is that -



the applicant served under the respondent authorities for 34 years. After long and illustrious years of selfless service, he retired on superannuation on 28.02.2019 as Tech/1/FPO. During service period, he was duly promoted because of his eligibility and seniority as and when vacancy arises in the office. However, before few months of retirement, he was treated unfairly and against the administrative and service fair play. Prior to few months before his retirement, he requested Sri Pabitra Konwar, O.S. to process his service file so that he can avail the benefit of promotion to the post of Sr.Tech/FPO as vacancy as available in respect to the said post due to the retirement of one Sri Babul Kanti Dey on 31.07.2018 and one Sri Dipak Chakraborty on

31.12.2018 (Both as Sr.Tech/FPO respectively). After requesting verbally, the applicant made representations on 28.01.2019 and 09.02.2019 before the Respondents for granting him promotion before his retirement. The Respondents vide Reply/Order dated 26.03.2019 rejected the request of the Applicant on the ground that there is no vacancy and as such question of promotion does not arise. The Applicant thereafter through his Attorney served notice upon the Respondents to grant promotional benefit of Sr. Tech/FPO to him, however, the same was not responded to by them. Thereafter, the applicant on 13.11.2020 filed one application seeking information under Right to Information Act, 2005 as to under what rule the Respondents have promoted a similarly situated employee before 21 days of his retirement but denied the same to the applicant. The Respondents are yet to furnish any information to the query raised by the applicant in his application under Right to Information Act, 2005 till date.



4. The applicant stated that he has been denied what was legally due to him before his retirement and was also denied only due to lack of Administrative will and unjust treatment and as such the same is against the Constitutional mandate and service laws. Under such circumstances, the applicant prays for a direction upon the Respondents to grant him promotional benefit of a Sr. Tech/FPO and any other benefits he is entitled to under law and equity.



5. Ms. U. Das, learned railway counsel appearing for the respondents strenuously submitted that present O.A. shall not be entertained by this Tribunal and in terms of the intimation letter dated 26.03.2019, the O.A. may be dismissed.

6. We have considered the issue. In the present case, it is seen that applicant is basically asking for promotion as Senior Tech/FPO from Tech/1/FPO within his service period. However, he was neither promoted till 18.02.2019 nor granted any promotional benefits after his retirement. We have also gone through the letter

dated 26.03.2019 by which the respondent authorities have intimated to the advocate Sri Rabindra Kumar Dey that – “as per selection calendar for the year 2018, last suitability test to the post of Sr. Tech category was conducted on 26.11.2018 and in terms of para-212 of Indian Railway Establishment Manual (IREM), the suitability test should be held at the interval which should not be less than six months. Moreover, on 01.04.2018, there was no vacancy in the category of Sr. Tech/FPO so, the question of promotion to the post of Sr. Tech/FPO of Sri Rohidas Basak Ex. Tech/I under SSE/Works/WS/LMG does not arise.”



7. In view of the perusal of the above letter dated 26.03.2019, it is evident that the respondent authorities have not made any unjust treatment on the applicant. No legal point has been brought out by the learned counsel for the applicant that the applicant has been denied what was legally due to him before his retirement. Hence this court is not found any justified reason to interfere with the reply/order dated 26.03.2019

issued by the respondent authorities more particularly respondent No. 4.

8. Keeping in view of the above, we found that the O.A. is devoid of merit and accordingly, hereby dismissed.

9. No order as to costs.



(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

PB

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