

(Ex)
Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1129 of 1998

Allahabad this the 01st day of December, 2004

Hon'ble Mr.M.P. Singh, Vice Chairman
Hon'ble Mr.A.K. Bhatnagar, Member(J)

Arun Kumar Chandel S/o Late Shri Sonu Lal Working
as Painter Khalasi under Section Engineer(Works)
(North), North Eastern Railway, Varanasi.

Applicant

By Advocate Shri Sudama Ram

Versus

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Varanasi.
3. Sr. Divisional Personnel Officer, North Eastern Railway, Varanasi.
4. Sr. Divisional Engineer-I, North Eastern Railway, Varanasi.

Respondents

By Advocate Shri A.K. Gaur

O R D E R (Oral)

By Hon'ble Mr. M.P. Singh, V.C.

By filing this O.A. applicant has claimed
the following reliefs:-

8.1 The Hon'ble Tribunal may be pleased to direct
the respondents to allow the benefit of promotion
and seniority to the applicant on the post of
Painter Grade III (scale Rs.950-1500), with effect
from 17.4.92, Painter Grade II Rs.1200-1800

...pg.2/-

22

with effect from 1.3.93 and Painter Grade-I scale Rs.1320-2040 with effect from 27.11.97 respectively with arrears of pay.

8.2 Any other order or direction which this Hon'ble Tribunal may deem fit and proper in circumstances of the case be issued in favour of the applicant.

8.3 Cost of the application may be awarded in favour of the applicant.

2. During the course of arguments, learned counsel for the applicant has submitted that the applicant was selected in sports quota as Casual Labour and appointed on regular basis w.e.f. 08.11.1981. Thereafter he became eligible for promotion to the post of Painter and his name also appeared at sl.no.31 ^{in the eligibility list} for the post of Painter in the scale of Rs.950-1500/- (annexure A-6). However, due to administrative reason the applicant could not participate in the test held in the year 1991. According to learned counsel for the applicant the persons junior to the applicant ^{were} screened and on their passing the screening test, they were regularised. ~~Since~~ The applicant who was senior to these persons, made a representation to the respondents but no action was taken by the respondents on his representation. Hence he has filed this O.A.

3. Learned counsel for the applicant has also submitted that as per para-328 of Indian Railway Establishment Manual Volume I if the railway servant is not screened for promotion to the next higher grade due to administrative lapses, be assigned correct seniority vis-a-vis their juniors already promoted, irrespective of the date of promotion. He has, therefore, made submission that the

(2)

applicant will feel satisfied if the respondents are directed to re-consider and screen the applicant for the next higher grade and if he is found suitable he may be promoted to the higher post from retrospective date on notional basis i.e. from the date his immediate junior was promoted to the Artisen Grade III/Painter and actual promotion will be given prospectively.

4. On the other hand learned counsel for the respondents has submitted that in the year 1991 the applicand did not complete 5 years service, which is minimum required qualification. Since the applicant had not completed 5 years service, he was not called for screening, therefore, could not be screened and considered for promotion to the next higher grade of Artisan Grade III.

5. We have heard the learned counsel for the parties and perused the record.

6. Now the admitted facts are that the applicant has been appointed for the post of Group 'D' on regular basis w.e.f. 08.11.1981. He has also due for promotion in his turn to the higher grade. It is also not disputed that the applicant ^{has} till now, ² applicant has ² not been promoted ^{to} for the post of Artisan Grade III and some of his juniors have been considered and promoted to the next higher grade.

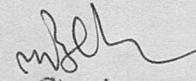
7. Keeping in view the facts and circumstances of the case we are of the considered view that interest of justice would be met if we direct the respondents to screen the applicant for promotion to the next higher

:: 4 ::

24

grade and if the applicant is found suitable, he may be promoted to the next higher grade of Artisan Grade III from retrospective date notionally i.e. from the date his immediate junior was promoted in accordance with the provisions of para-228 of Indian Railway Establishment Manual Vol.I. No arrears of salary will be granted to him and actual promotion will be given prospectively. The respondents are directed to complete this exercise within a period of 4 months from the date of receipt of a copy of this order. With these directions, O.A. stands disposed of. No Order as to costs.


Member (J)


Vice Chairman

/M.M./