

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the **18th** day of **February , 2008.**

**HON'BLE MR. JUSTICE A. K. YOG, MEMBER- J
HON'BLE MR. K.S. MENON, MEMBER- A.**

ORIGINAL APPLICATION NO. 611 OF 2001

G.P. Tiwari, a/a 59-1/2 years, S/o Sri B.M. Tiwari,
R/o 889, Prem Ganj, Sipri Bazar, Jhansi.

.....Applicant.

VE R S U S

1. Union of India through General Manager ,
Central Railway, Mumbai CST.
Dak Bhawan, New Delhi.
2. Divisional Railway Manager, Central Railway,
Jhansi.

.....Respondents

Present for the Applicant: Sri R.K. Nigam
Present for the Respondents : Sri D. Awasthi

ORDER

BY HON'BLE MR. JUSTICE A.K. YOG, J.M.

By means of present O.A, the applicant claims following relief(s): -

"8.i to issue a writ, order or direction in the nature of mandamus thereby commanding the respondents to determine and assign correct seniority as well as correct rate of pay in the cadre of Junior Charge man with effect from 1-7-81, Senior Charge Man in grade Rs. 1600-2660 with effect from 27.1.86 and Section Engineer in Grade Rs. 2000-3200/6500-10500 with effect from 26-9-91 for which a time bound direction be given alongwith consequential benefits as has been given to the other junior counterparts of the humble petitioner.

8.ii. to issue any other suitable order in favour of the humble petitioner as deem fit by this Hon'ble Tribunal in the facts and circumstances of the case.

(Signature)

(P-2)
(Continued on P-2)

8.iii. to award cost of the petitioner in favour of the humble petitioner."

2. Perusal of the O.A itself shows that the relief(s) claimed were with reference to the matters which pertain to the year 1981, 1986 and 1991. The order sheet (particularly order dated 26.07.2001) shows that notices were issued to the respondents and they were enabled to exchange their pleadings in view of the fact that the applicant was to attain age of superannuation shortly i.e. on 31.08.2001 so that the O.A itself may be decided finally. The O.A, for various reasons evident from the order sheet itself, could not be heard remained pending till date.

3. Misc. Application No. 4722/2001 (for seeking certain amendments in O.A) was filed. Seeking permission to incorporate certain facts relating to subsequent developments (which came in existence subsequent to filing of O.A) including order dated 26.06.2001 as a consequence of which he was promoted and transferred to new place (New Katni Junction) vide proposed paras 4.71 to 4.86, paras 5.9 to 5.12 to raise legal grounds and to add new relief as per proposed new clause 8.iv in the nature of mandamus commanding the respondents to give promotion in various grades/posts to the applicant with effect from the date, his juniors were given similar benefit. This M.A was, however, rejected by the Tribunal vide order dated 16.09.2003, relevant extract of the order reads-

".....By this M.A No. 4722/01 applicant has prayed to challenge the order of promotion granted to the applicant as Senior Section Engineer (Mech). The grievance is that he should have been promoted as Senior Section Engineer (Mech) from the date when his juniors were promoted. In our opinion, the cause of action for which the amendment is pressed, is an independent and fresh. At this stage, learned counsel for the applicant submitted that this application may be dismissed as

(u)

(u) (Contd. on P.3)

not pressed, so that applicant may file fresh O.A. M.A No. 4722/01 is accordingly dismissed with liberty to the applicant to file a fresh O.A, if so advised.

Sri R.K. Nigam, learned counsel for the applicant prays for and is granted two weeks time to file R.A.

4. In the given facts of the present case, it is to be appreciated that no relief can be granted to the applicant (as is evident from the averments made in the amendment application also) unless the last order dated 26.06.2001 was challenged by the applicants by filing fresh O.A (as noted in the aforequoted order) and said was set aside.

5. On a query made, the learned counsel for the applicant candidly conceded that the aforesaid order dated 26.06.2001 was not challenged before Tribunal/Court and to the best of his knowledge, the said order has attained finality.

6. In view of the above, no relief(s), claimed in the present O.A, can be granted by this Tribunal. If the applicant did not choose to challenge the said order dated 26.06.2001 inspite of the above quoted order dated 16.09.2003, the applicant is to blame himself. The O.A stands dismissed.

6. No costs.

Janmooji
MEMBER - A.

R.K. Nigam
MEMBER - J.

/Anand/