

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

THIS THE 20/8/11 DAY OF May 2011

Hon'ble Dr.K.B.S.Rajan, Member (J)
Hon'ble Mr.D.C.Lakha, Member (A)

**Original Application No. 222 of 2006
(U/s 19, Administrative Tribunal Act, 1985)**

Yadu Nath Prasad, S/o Bindeswari Orasad
R/o 227/3B, Lal Bagh Colony,
Rajrooppur, Allahabad.

..Applicant

Present for Applicant: Shri M.K.Sharma, Adv:

Versus

1. Union of India through General Manager,
North Central Railway
Allahabad.
2. Divisional Railway Manager,
N.R.Railway, Allahabad.
Dy.Chief Electrical Engineer(Construction)
N.C.Railway, Allahabad.

..Respondents

Present for Respondents: Shri P.Mathur, Adv.

ORDER

(Delivered by Hon'ble Dr.K.B.S.Rajan, Member (J))

Thanks to the dexterity of the counsel for the parties,
the written submission preferred by them succinctly reflects
their respective stand and reproduction of the same would

suffice to have a full understanding of the case and the respective stand of the parties.

2. Case of the Applicant:

(i) The present original application was filed seeking the following relief:-

(i) To quash the order dated 28.10.2004 passed by respondent no.2.

(ii) To issue a writ order or direction to the respondents to correct the seniority of petitioner by assigning his seniority position between 28 and 29 in the panel dated 27.12.1996.

(iii) to issue Any other and further order which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case. To award the cost.

(iv) For perusal of this Hon'ble court the relevant date chart are being reproduced there under:

(ii) On 21...2.1990 Applicant was appointed as casual Khalasi in class IV & joined on 21.2.1990. On 17.5.1995 the applicant was dismissed from service after holding enquiry. The petitioner preferred an appeal but the same was also dismissed. On 8.8.1997 the petitioner has preferred an original application no.880 of 1995 which was decided by this Hon'ble Tribunal. On 26.9.1999 again order of dismissal passed vide order dated 26.9.1999 after initiating proceeding afresh against the applicant. On 1.10.1999 appeal of the petitioner was also dismissed.

[Signature]

Petitioner preferred original application no.85 of 2000 before this Hon'ble Tribunal against the impugned order dated 26.09.1999 and 01.10.1999. On 29.10.2001 this Hon'ble Tribunal has allowed the original application No.85 of 2000 and observed that the appellate order is more commendable. On 5.11.2001 the petitioner moved a representation in pursuance of order of this Hon'ble Tribunal dated 29.10.2001. Petitioner filed contempt petition No.29 of 2002 because respondents had not complied the order and direction of this Hon'ble Tribunal. On 15.09.2003 the writ petition No.9277 of 2002 Union of India Vs. Yadunath Prasad filed by respondent has been dismissed by the Hon'ble High Court. On 23.9.2003/24.6.2004 & 13.10.2004 petitioner made representations before the DRM but no action has been taken. On 08.11.2005 the contempt petition no.85 of 2000 was dismissed on the ground that the substantial compliance has been made by the respondents and a liberty was given to the applicant to file fresh O.A. That the above mentioned case was taken up on 3.4.2006 for admission and this Hon'ble Tribunal has issued notices and passed a detailed order. That it is submitted that applicant was dismissed from service in 1995 and after that the screening was held in 1996 and as such he is entitled to place his name between 28 and 29 of the seniority list/screening. The applicant was and is working in construction electrical general department and not in T.R.D department. The applicant has been empanelled with effect from 1998 treating him in TRD department is illegal, arbitrary and without any documentary evidence on record.



(iii) The respondents have filed counter affidavit and supplementary counter affidavit. In supplementary counter affidavit it has been stated that the incomplete service book has been filed. In supplementary rejoinder reply the applicant has filed his complete service which clearly shows that applicant never worked in TRD department. It is submitted that the junior petitioner were enjoying the scale of Rs.2550-3200 since 1996. The applicant is entitled all the consequential benefits which seniority, salary and arrear of salary at par with junior to the petitioner in pursuance of screening held in 1996.

3. Case of respondents:

(i) The applicant in the respective panel of 1998-99 in TRD department as per the extant rules on the subject and nothing by empanelling the applicant in TRD department vide letter No.APO-III Misc.-99 dated 27.01.1999 and it is only for this reason, the applicant in pursuance of the representation dated 13.10.2004 was apprised of the action to be taken by the competent authority. The applicant since had been screened in the TRD department and as such his name could not and should not have been interpolated in the panel declared for screening for Electrical (General) department which was held on 29.12.1996. The applicant was rightly been screened, which was held on 29.12.1996 by interpolating him in respective panel as claimed by him. The applicant since at no point of time had worked in the Electrical (General) department and as such as per extant rules, has no

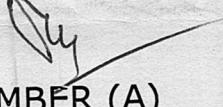


right for making request for interpolating his name. Admittedly, the applicant since was maintained his lien in Allahabad Division and as such on availability of vacancy in TRD Department in 1998-99, his candidature was considered granting him all consequential benefits including seniority on the basis of his due empanelment in the panel issued by the concerned authorities.

(ii) The applicant contended in the rejoinder that he had never worked in TRD division. However, no concrete proof had been furnished by him. Obviously, he must belong to any of the three wings TRD/Electrical General/TRO and according to the respondents, as per the service records the applicant has been functioning in the TRD and has been holding lien in that wing. We do not disbelieve this statement.

3. As Annexure CA-1 provides for necessary seniority of the applicant in the present grade, the grievance of the applicant gets fully redressed. No further orders are required in this case.

4. Hence, this OA is closed without any further orders.


MEMBER (A)


MEMBER (J)

UV/-