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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This the 28th Day of May 2012)

Hon'ble Mr. Sanjeev Kaushik-JM
Hon'ble Mr. Shashi Prakash - AM

Original Application No.624 of 2007
(U/S 19, Administrative Tribunal Act, 1985)

Dilip Kumar Shukla, Son of K. D. Shukla,
Presently working as Section Engineer (Survey), Nirman Vibhag,
North Eastern Railway, Gorakhpur.

..... Applicant

By Advocate: Shri Saurabh Basu

Versus

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Chief Personnel Officer, North Eastern Railway, Gorakhpur.
3. Chairman, Railway Board, Rail Bhawan, New Delhi.

..... Respondents

By Advocates: Shri P.N. Rai

ORDER

Delivered by Hon'ble Mr. Sanjeev Kaushik, Member-J

By way of the instant original application filed under section 19 of the Administrative Tribunals Act, 1985 the applicant seeks quashing of impugned order dated 23.6.2006 (Annexure-4) passed by General Manager North Eastern Railway, Gorakhpur with further prayer to direct the respondents to frame a policy to

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the effect that Graduate Engineers be directly recruited as Assistant Engineers in-group 'B' category from the date of this initial appointment and to grant all benefits and privileges to the applicant meant for Group 'B' officers.

2. Learned counsel for the applicant Shri Saurabh Basu vehemently argued that the impugned order ought to have been passed by Chairman Railway Board as it involve the policy decision whereas the same has been passed by the General Manager without even referring to the Board, therefore, the same is liable to be set aside. He urged that the representation was also made to Chairman Railway Board New Delhi along with an order passed by this Tribunal, despite that the General Manager has passed the impugned order, therefore, the same is not sustainable in the eye of law and liable to be set aside.

3. On the other hand Shri P.N. Rai learned counsel for the respondents did not dispute that the impugned order has been passed by General Manager. Shri Rai submitted that the General Manager is competent to deal with these types of representation.

4. We have gone through the relief claim and order passed by this Tribunal in the earlier round of litigation i.e. in OA No.184 of 1999 decided on 7.12.2005. The relief claimed in the earlier original application reads as under:-

“(i)To issue an order or direction commanding the respondents to provide the applicants/section Engineers, the designation and post of Assistant Engineer Clas-2 (gazetted Officer) in place of Section Engineer.

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(ii) To issue an order or direction commanding the respondents to provide the applicants/Section Engineers 'Bounded Year Promotion' facility as provided to the employees selected through Indian Engineering Service conducted by Union Public Service Commission.

(iii) To issue an order or direction directing the respondents to decide the representation of the applicants with reasoned order within a month."

The order passed in earlier original application reads as under:-

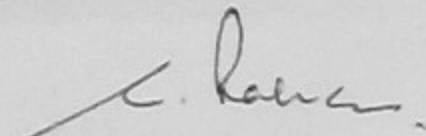
"5. Without going into the merits of the case, we consider it appropriate that this O.A. can be disposed of by allowing the applicants to file a fresh representation individually to the competent authority regarding their grievance through proper channel. In case, the same are received in the office of the competent authority, the same will be decided within a stipulated period.

6. Accordingly, the O.A. is finally disposed of with liberty to the applicants to file fresh representations to the competent authority within a period of four weeks from the date of receipt of a copy of this order with the further direction to the competent authority to decide the same by a reasoned and speaking order as per rules within a period of six months from the date of receipt of the representations along with copy of this order."

5. The plain reading leaves no doubt that the relief claimed by the applicant involves ^athe policy matter. The representation was also addressed to Chairman Railway Board who is competent to take policy decision. The General Manager who is not competent authority have passed the impugned order without even referring to the Railway Board which is contrary to the direction contained in order dated 07.12.2005. Therefore, we are of the view that the impugned order passed by the General Manager does not sustain in the eye of law, accordingly, the same is set aside. The matter is

remitted back to respondent no.3 i.e. Chairman Railway Board, Rail Bhawan, New Delhi to decide the claim of the applicant as directed by this Tribunal on 7.12.2005 and to decide the representation dated 27.12.2005 (Annexure-3) by passing a reasoned and speaking order. The learned counsel for the applicant is directed to submit the certified copy of this order along with copy of the representation dated 27.12.2005 and the order earlier passed in OA No.184 of 1999 within 15 days. If the applicant submits all the papers then the competent authority will take a decision thereupon within a period of four months.

4. OA stands disposed of. No Costs. Needless to say that we have passed any orders on the merits of the case.


Member-A


Member-J

/ns/