

NOTES OF THE REGISTRY

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Order dated 18/12/93

This Original application has been filed by Shri Gobinda Behera praying for direction to be issued to Respondent No. 1 & 2 to promote him as Train Light Fitter (T.L.F.) Grade III and to grant him all consequential benefits from the date Respondent No.3 & 4 were promoted to that grade.

2. The case of the applicant is that although he belongs to the Dewar community when he joined service as Khalasi Group 'D' on 15.10.80 he was ^{not} treated as a SC candidate. On the other hand, Respondent No. 3 & 4 had been treated as SC candidate from the beginning. The applicant had submitted the requisite certificate for getting the benefit of reserved category employees in 1994. However, when a trade test for promotion to T.L.F. Grade III was held on 29.03.96, Respondents 1 & 2 called Respondent No. 3 & 4 for this test but not the applicant. He represented against this action to the Respondents but without success. Similarly, he was also not called for trade test for promotion held on 03.10.97 against which also he submitted a representation to the authorities on 21.10.97 but without any effect (Annexure-A-7).

3. The Respondents have admitted that the applicant had submitted his Caste Certificates in the year 1994, which was duly processed and his service records were corrected treating him as a SC candidate with

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effect from 06.02.97 by issuing an Office Memorandum dated 06.02.97 They have also admitted that he was not called for trade test as SC candidate either on 29.03.96. ~~or on 03.10.97~~ They have, however, explained that he was not called for trade test on 03.10.97 as there was no vacancy available under SC reserve quota. However, in the year 1998 he was called for trade test for promotion and he was granted promotion to that grade with effect from 25.11.97 on proforma basis. They have submitted that as the applicant has already been promoted to T.L.E Grade III this application has become ~~anfractuous~~.

4. Having considered the submissions, both written and oral, made by the parties it is clear that the Respondents had taken about three years time to correct the service records of the applicant on the basis of the Caste Certificate submitted by him in 1994. The reason for taking such a long time for accepting the Caste Certificate has not been explained in any way by the Respondents either in their counter or during the oral argument. It is, therefore, clear that there has been unreasonable delay in processing of the applicant's case for treating him as a SC candidate which resulted in denial of opportunity to him for promotion under SC quota when his juniors were considered on 29.03.96. Thus injustice was ^{done} to the applicant though without any malice. In result, he is entitled to the relief he has prayed for as he has been put to disadvantage owing to

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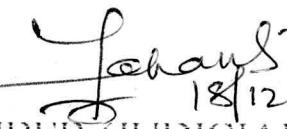
For copies of final order dt. 18.12.03 issued to counsel for both sides.

DR
25/12/03

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administrative delay. We accordingly direct the Respondents to grant him proforma promotion from the date his juniors Respondent No. 3 & 4 were granted promotion to TLF Grade III and to pay him back wages for that period also. No costs.


18/12/03
VICE-CHAIRMAN


18/12/03
MEMBER (JUDICIAL)