

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

O.A. NO. 99/20016.7.2004

On 21. 6. 7. 04
 Copies of order
 dt. 06.07.04 prepared
 for counsel for
 both side.

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 21/7/04
 S.O. (5)

The Applicant, Sri. Bobin Mohanty, presently working as Section Engineer (Designs) has filed this O.A. ventilating his grievance that his name does not find place in the seniority list/ list of eligible candidates for selection to the Grade of AEN Group 'B'.

2. The claim of the petitioner is solely based on the decision of the Principal Bench in O.A. No. 2214 of 1998 dated 05.01.01 wherein their Lordships were pleased to order as follows:-

"Having regard to the above reasons, we allow the O.A. and direct the respondents to consider delinking the percentage distribution of posts in the cadre of Design Assistant from the disciplines of Drafts Man/Estimators in the Civil Engineering Department and grant replacement scale of Rs. 6500-10500 for Design Assistant and Rs. 7450-11500 for Chief Design Assistant as recommended by the 5th CPC with consequential benefits...."

3. The plea of the Petitioner is that his name would have found place if the judgement of the Principal Bench, as referred to above, was given effect to by the Railway Administration. He

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further submitted that in spite of the said order of the Principal Bench, the Respondent-Railway have not revised the seniority list treating the Design Assistant as an independent cadre. He has therefore approached this Tribunal to issue a direction to the Respondents to declare the applicant eligible for selection against 70% vacancies for formation of AEN Group 'B' panel by implementing the judgement of this Tribunal dated 05.01.01.

4. We have heard Sri. Sandeep Parida, Learned Counsel for the applicant, and Sri. B. Pal, Learned Senior Counsel and Mr. D.N. Mishra, Learned Standing Counsel appearing for the Railways. We have also perused the records placed before us in the matter. Sri. B. Pal Learned Senior Counsel drew our notice to the judgement of the Tribunal and submitted that the judgement of this Tribunal dated 05.01.01 has been carried in appeal before the Hon.ble High Court of Delhi by the Northern Railway and the matter is pending final disposal. He has submitted that there being traditionally no cadre of Design Assistant the allegation made by the petitioner that he is being deprived of his legitimate right to be considered for promotion to the

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[Signature]

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Grade of AEN Group 'B' merits no consideration.

5. We have carefully examined the grievance of the applicant in this O.A., the question raised before the Principal Bench of this Tribunal, and the order of the Tribunal in O.A. No. 2214/98 dated 05.01.01. The recommendations of the 5th Pay Commission with regard to the grant of pay scales to the Drawing, Design, and Estimators cadre in the Railways had been accepted by the Respondents with certain modifications which were communicated to all concerned by the Railway Board, vide their letter dated 28.09.98. That order was challenged before the Principal Bench which was pleased to direct the Respondents Railway to reconsider the case of the applicants in that O.A. with regard to the percentage distribution of posts in the pay scales of Rs. 6500-10500/ Rs. 7450-11500. The Respondent Railway instead of reconsidering the matter, has challenged the decision of the Principal Bench in the High Court of Delhi. In the circumstances, the applicant could not have come before us seeking redress of his grievances relating to the order of this Tribunal dated 05.01.01. In other words, we

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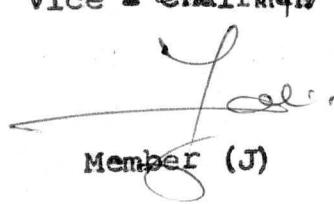
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find that the Applicant in this case has rushed to this Tribunal prematurely. Consequently, this O.A. is not maintainable on the ground on which it has been submitted.

6. Having regard to the above facts and circumstances of the case, we dismiss this O.A. being premature.

No costs.


John
Vice - Chairman


Member (J)