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O.A. No. 527 & 611 of 2004

Order dated: 26.06.2008

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member(J)
Hon'ble Mr. C.R.Mohapatra, Member (A)

None for the applicant. Heard Mr. R.C.Rath,
Ld. Counsel for the Respondents.

Questions involved in these two cases are one and same and the facts are also on the same pattern, hence these cases are taken together and disposed of by common order.

Earlier to these O.As. both the applicants had approached this Tribunal and as per orders passed in O.A.1067/02 and 637/03, this Tribunal has directed that "The applicant should file a representation before the said chief Personnel officer for reconsideration of the order passed by him on 4.7.03 at para 23 and to issue further such order as may be admissible under Rules with regard to grant of benefits of pay fixation at higher grade consequent upon restoration of his seniority position above Sri Susanta Mukherjee, R.K.Banerjee & S.P.Dasgupta. We further direct that the applicant would submit his representation before the Chief Personnel officer, South Eastern Railway within a period of thirty days from the date of receipt of this order and upon receipt of such a representation the said functionary i.e. Chief Personnel officer, South Eastern Railway, should dispose of the same within a period of sixty days of its receipt".

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After disposal of the above O.As., the authorities have passed an order allowing the promotion of the applicants from the date from which their juniors have been promoted. Hence the question raised in this O.A. ~~is~~ is only with regard to the payment from notional promotion given to the applicants by the authorities. The question of financial benefits for an employees who was notionally promoted has already been considered by the Apex Court in ~~the~~ catena of cases and lastly in (2007) 1 SCC(L&S) page 63 in Union of India and another vs Tarsem Lal and others. In the above latest judgment of the Apex Court, the Apex Court, in following the judgment of the Apex Court reported in (1990) 3 SCC 472 in Virendra Kumar vs Avinash Chandra Chadha, held that no work no pay principle has to be followed in cases ~~were~~ notional promotions were given unless it is established that the promotions were curtailed due to the willful latches and deliberate negligence of the department.

According to the above ~~circumstances~~, we are of the view that the applicants are not entitled for any financial benefits following ~~to~~ the notional promotion effected by the department. Accordingly the O.As stands dismissed without any order as to costs.

Chaitanya
MEMBER(A)

Kappan
MEMBER(J)