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O.A.No. 152 of 2007

Y.V.Narayana and others

Applicants

Vrs.

Union of India and others

Respondents

CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
AND

HON'BLE SHRI C.R.MOHAPATRA, ADMN. MEMBER
.....

Order dated 13.11.2009

Seven applicants, who were working as Khalasis in the Electrical Sections, S.E.Railway, Rourkela/Bondamunda, under the Senior Divisional Electrical Engineer(TRS), South Eastern Railway, (Respondent No.7), have filed this Original Application, being aggrieved by Annexure A/6 order issued by Respondent No.7. The applicants have prayed for quashing the said Annexure A/6 order and also for a direction to the Respondents to give promotion to them w.e.f. the date their juniors were promoted to the post of Technician Grade III, Grade II and Grade I.

2. The O.A. has been admitted by this Tribunal and notice ordered.

3. Pursuant to the notice, a counter has been filed for and on behalf of the Respondents, in which the stand taken is that before the merger of the Khalasis in the Electric(Operation)Cadre of maintenance staff of Rourkela and Bondamunda with that of the Electrical Loco Shed, Bondamunda could be finalized by publishing Annexure R/1 seniority list, 22 vacancies in the post of Technician Grade III were notified and filled up from among the Khalasis working in the Electrical Loco Shed, Bondamunda, by way of promotion. The Respondents have submitted that after merger of the two groups of Khalasis, there were no vacancies to promote the applicants and therefore, Annexure A/6 was issued. By filing Annexure R/2 the Respondents have stated that applicant nos. 1 to 5 have already been promoted to the post of Technician Grade III

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w.e.f. 28.3.2007 as per their seniority in the common seniority list. The Respondents have further submitted that none of the juniors of the applicants in the common seniority list having been promoted so far, the O.A. does not merit consideration.

4. We have gone through the averments contained in the O.A. We have heard Ms.S.L.Pattnaik, learned counsel for the Respondents.

5. The case of the applicants is that when the restructuring was effected and the merger took place, they should also be promoted to the post of Technician Grade III and other subsequent promotional posts. However, prior to the filing of this O.A., some of the applicants had approached this Tribunal by filing OA No. 735 of 2006 for a direction to the Respondents to consider their representation pending before the Respondents. The said O.A. had been disposed of by this Tribunal directing the Respondents to consider the representation and pass appropriate orders thereon. After disposal of the said O.A. and in pursuance of the direction issued by this Tribunal, the present impugned order has been passed by the Railways. We have seen that as per Annexure A/1 memorandum the merger of two groups of staff had taken place and it is evident from Annexures A/1 to A/3 that there was adoption of restructuring policy also by the Railways. The applicants appeal (Annexure A/4) to the Divisional Railway Manager was not attended to. However, on the basis of direction given by this Tribunal in OA No. 735 of 2006, the impugned order Annexure A/6 has been passed by the Respondents.

6. The learned counsel for the Respondents, reiterating the statements contained in the counter, submitted that due to restructuring and merger of two groups of staff including the applicants, there existed no vacancy for promotion. However, now as the restructuring has been completed and the merger policy has been implemented and on the basis of seniority position, applicant nos. 1 to 5 have been promoted w.e.f. 28.3.2007 and other applicants could not be promoted due to their position in the seniority list.



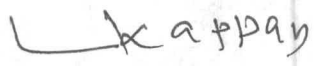
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7. On considering the averments in the O.A. and the materials now placed before this Tribunal by the applicant and after hearing the learned counsel for the Respondents, we are of the view that as far as applicant nos. 1 to 5 are concerned, their grievance has been met by the Respondent-authorities by giving them promotion w.e.f. 28.3.2007. Though prayer has been made by the applicants for a direction to the Respondents to give promotion to the posts of Technician Grades II and I, no materials have been placed before this Tribunal to come to a conclusion that any of the juniors of the applicants in the common seniority list has been promoted to the said promotional posts and the applicants have been ignored. In this connection, it has to be noted that none of the alleged juniors has been made party in the O.A. The promotion of any Khalasi working in the Electrical Loco Shed, Bondamunda, to the grade of Technician Grade III, who joined as Khalasi later than the applicants, having taken place prior to the effective merger of the two groups of Khalasi, cannot be a ground for the applicants to claim such promotion.

8. In the above circumstances, we find that the grievances of applicant Nos. 1 to 5 have already been redressed by the Respondents, and no materials have been placed before this Tribunal to grant the other relief as claimed in the O.A.

9. With the above, we are disposing of this O.A. No costs.


(C.R. MOHAPATRA)
ADMN.MEMBER


(K.THANKAPPAN)
JUDICIAL MEMBER