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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.530 of 2007

Cuttack this the 30th day of March, 2011

CORAM:

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

AND

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

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Sarojo, aged about 59 years, S/o. Biranchi Sahu, Technician, Gr.III/TRS/BNDM, under Sr.Divisional Electrical Engineer, Bondamunda, At/Po-Bondamunda, Dist-Sundargarh

...Applicant

By the Advocates:M/s.P.K.Mohapatra & S.K.Nath

-VERSUS-

1. Union of India represented through it's General Manager, south Eastern Railway, Garden Reach, Kolkata, West Bengal
2. Chief Personnel Officer, South East Railway, Garden Reach, Kolkata, West Bengal
3. Divisional Railway Manager (P), S.E.Railway, Chakradharpur Division, At/PO-Chakradharpur, Dist-West Singhbhum, Jharkhand
4. Senior Divisional Personnel Officer, Chakradharpur Division, S.E.Railway, At/PO-Chakradharpur, Dist-West Singhbhum, Jharkhand
5. Sr.Divisional Electrical Engineer (TRS), S.E.Railway, Bondamunda, At/PO-Bondamunda, Dist-Sundargarh

...Respondents

By the Advocates: Mr. G. Singh

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ORDER**HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER:**

1. This Original Application, which is an off shoot of earlier O.A.59/2007, has been filed by a retired Railway employee. In the earlier O.A. the applicant prayed for a direction to the Respondent-Railways to promote him as Technician, Gr.II and Technician Gr.I respectively, at par with his so called colleagues who were junior to him and promote as such before his superannuation w.e.f. 30.4.2007. This Tribunal, vide order dated 21.2.2007, disposed of the said O.A., the relevant portion of which reads as under:

"Ld.Counsel for the applicant submits that the applicant was wrongfully denied the promotion and his juniors were promoted. Since the applicant is going to retire on 30.4.2007, he prays for interim relief to order Respondent No.3 to consider his case for promotion pending finalization of the O.A.

It is found from the record that a representation (Annexure-A/2) with Divisional Railway Manager, South eastern Railways, Chakradharpur (Respondent No.3) appears to be pending since 13.06.2006.

Having heard Ld. Counsel for both the parties and as there is no objection, Respondent No.3, i.e., DRM, South eastern Railways, Chakradharpur, Jharkhand is directed to dispose of the pending representation as per rules and pass orders, positively before the applicant retires".

2 In compliance with the aforesaid order passed by this tribunal, the D.R.M., S.E.Railway, Chakradharpur vide his order dated 30.04.2007 under Annexure A/4 to this O.A has considered & rejected the representation of the applicant after



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Considering his representation. Hence, the applicant has moved this Tribunal in the present Original Application seeking the following reliefs.

- "i) To quash the order dated 30.4.2007 as at Annexure-A/4.
- ii) To direct/order the respondents to consider the case of the applicant for promotion to Technician, Gr.II and Gr.I w.e.f. the date when juniors were promoted and grant all service and monetary benefits forthwith".

3. Respondent-Railways have filed their counter opposing the prayer of the applicant. They have stated that the O.A. being devoid of merit is liable to be dismissed.

4. We have heard Shri P.K.Mohapatra, learned counsel for the applicant and Shri S.K.Ojha, learned counsel appearing on behalf of the Respondent-Railways and perused the materials on record.

5. Admittedly, the applicant had been appointed as Shed Khalasi in Electrical (OP) Department on 09.09.1972, promoted as Khalasi Helper on ad-hoc basis w.e.f. 31.02.1983 and further to the post of Technician, Gr.III w.e.f. 22.01.2004. It is also an admitted position that S/Shri G.D.Mhanto, K.C.Jena, S.N.Das and S.K.Padhi, over whom the applicant claims seniority, are all junior to him, their regular appointment to the grade of Khalasi being made in the years 1985, 1982, 1985 and 1989 and to Technician-III in the years 1994, 1994, 1994 and 1995, respectively. According to the Respondents, prior to merger of the two units, viz., ELS/BNDM and Elect/OP, separate seniority lists were being maintained and after merger a combined seniority list was prepared wherein the seniority of all the incumbents of both the units merged in accordance with the length of non-fortuitous service rendered by the staff in their respective grade as on the crucial date of merger. Based on this, the seniority of the applicant was taken into account as Technician, Gr.III cadre of ELS/BNDN as per the

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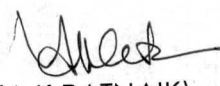
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extant rules and the inter se seniority was drawn up accordingly. Further it has been categorically stated in the letter under Annexure A/4, that since the applicant, at the time of merger of two units was working as Technician, Gr.III whereas the incumbents over whom he is claiming seniority were working as Technician, Gr.II, it is but natural that the applicant was to be assigned seniority in the grade of Technician, Gr.III in the combined seniority list of the merged unit where as S/Shri G.D.Mhanto, K.C.Jena, S.N.Das and S.K.Padhi, over whom the applicant claims seniority were assigned in combined seniority in the grade of Technician Gr-II.

6. We have considered the submissions made by the learned counsel for the parties. It reveals from the record that the applicant, at no point of time has ever agitated his grievance for giving him promotion to Technician-III at par with his so called juniors prior to the merger. Unless his seniority in the grades of Technician-III, II and I is fixed at par with his junior thereby showing the applicant senior to all those persons prior to the merger of two units, declaring the applicant senior to those persons in the merged unit is out of question. This apart, it is too late in the day for the applicant to agitate such a grievance. In view of this we hold that the seniority of the applicant has rightly been determined in the merged unit in the grade of Technician, Gr.III, which he was holding before the merger could ~~be~~ taken place.

7. For the reasons discussed above, we hold that this O.A. being devoid of merit is liable to be dismissed and accordingly, the same is dismissed. No costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K. PATNAIK)
JUDICIAL MEMBER