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O.A. No. 133 of 2009

Hiralal.....Applicant

Vs

Union of India & Ors. Respondents

Order dated: the 27th April, 2010

CORAM:

Hon'ble Mr. B.V.Rao, Member(Judl.)

&

Hon'ble Mr. C.R.Mohapatra, Member (Admn.)

The applicant is at present working as Sr.
Section Engineer (P.Way) under East Coast Railways and
has sought the following reliefs:

- a) to quash the impugned order of rejection dtd. 10.12.2008 under annexure-A/6;
- b) And direct the Respondents to promote the applicant to the post of AEN Group 'B' at par with others vide Annexure-A/5."

2. The grievance of the applicant is that although he is having good ACRs, he has not been awarded with full marks, i.e. 25 marks for being considered to the post of AEN/Group-B in pursuance of the notification issued by the Respondents Department. It is the case of the applicant that as per Master Circular No. 68/07 the following marks are

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awarded by assessing the ACRs for the preceding 5 years for promotion to the post in question:

Outstanding	:	5 Marks
Very Good	:	4 Marks
Good	:	3 Marks
Good/not fit	:	2.5 Marks
Average	:	2 Marks
Below Average	:	1 Marks

3. His further grievance is that he has not ever been communicated with the adverse remarks and, if at all any uncommunicated adverse remarks are there, it cannot be said that those stands adversary for assessing his ACRs. In the circumstances, he has stated that he should not have been awarded 23.4 marks, which is an odd figure out of full marks of 25 in respect of service records. In the above background, the applicant by impugning the order under Annexure-A/6, dated 10.12.2008 wherein he has been declared not suitable for the post in question has called in question its legality and validity.

4. The Respondents have filed a detailed counter opposing the prayer of the applicant. They have not disputed the averments of the applicant that he has ever been given




adverse remarks in his ACRs and it is their stand that as per verification of service records he has secured 23.4 marks, which is in accordance with the rules and, therefore, the O.A. being devoid of merit is liable to be dismissed.

5. We have heard Mr. N.R.Routray, Ld. Counsel for the applicant and Mr. S.K.Ojha, Ld. Standing Counsel appearing for the Respondents and perused the materials on record.

6. In course of hearing, Ld. Counsel for the applicant brought to the notice of this Tribunal a similar order passed by this Tribunal in O.A. No. 258/08, wherein the Tribunal had remitted the matter back to the Respondents-Department for considering the service records of the applicant in accordance with the relevant rules on the subject.


7. Having considered the above referred judgment/orders of this Tribunal in similar circumstances, we are not inclined to make a departure from the same and, accordingly, we direct the Respondents^{No.1} to reassess the service records of the applicant in line with the Master Circular No. 68/07 vis-à-vis the over all grading awarded to the applicant in respect of the ACRs for the preceding 5



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years considered for promotion to the post of AEN/Group-B and pass a reasoned and speaking order communicating the decision thereof to the applicant within a period of 60 days from the date of receipt of a copy of this order. In the circumstances, we quash the impugned Annexure-A/6 dated 10.12.2008.

7. With the above observation and direction, the O.A. is disposed of. No costs.


MEMBER (A)


MEMBER (J)

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