

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 607 of 1996

Date of Order : 03.11.2003.

Present : Hon'ble Mr. Nityananda Prusty, Judicial Member  
Hon'ble Mr. N. D. Dayal, Administrative Member  
Tarak Chandra Roy

VS.

1. Union of India, Service through the General Manager, Eastern Railway, Fairlie Place, Calcutta- 700 001.
2. General Manager, Eastern Railway, Fairlie Place, Calcutta-1.
3. Chief Operation Manager, Eastern Railway, Fairlie Place, Calcutta-1.
4. Chief Personnel Officer, Eastern Railway, Fairlier Place, Calcutta-1.
5. Divisional Railway Manager, Eastern Railway, Fairlie Place, Calcutta-1.
6. Divisional operation Manager, Eastern Railway, Howrah, District-Howrah.
7. Senior Divisional Personnel Officer, Eastern Railway, Howrah, Dist-Howrah.

For the applicant : Mr. S.K. Ghosh, counsel

For the respondents : Mr. P.K. Arora, counsel

ORDER

MR. NITYANANDA PRUSTY, JM:

The applicant, who is working as Sr. Assistant Station Master, Eastern Railway Bandel, has filed this application for the following reliefs:

- "i) To direct the respondents to cancel, withdraw and/or rescind the purported Memo. dated 31.8.1995 contained in Annexure-B hereof in so far as it purport to give alternative appointment to the post of Clerk Grade-II.
- ii) To direct the respondents to find out suitable berth commensurating with his status, scale of pay drawn and educational qualification in a sedentary post in scale of Rs. 1400-2300/- and if no post is available to absorb the applicant in scale Rs. 1200-2040/-RP and fix up pay according to the extant rules.

- iii) To give appointment to the applicant in a sedentary post in scale of Rs. 1400-2300/- in terms of Railway Board decision and circulars and fix pay accordingly commensurating with his status, pay and educational qualification.
- iv) to draw and disburse all arrears of salary since March, 1996 in no time
- v) To produce all the records of the case before this Hon'ble Tribunal
- vi) And to pass such further or other order or orders as to your Lordships may deem fit and proper.

2. As such the applicant has mainly prayed for a direction to the respondents to find out suitable berth commensurating with his status, scale of pay drawn and educational qualification in a sedentary post in scale of Rs. 1400-2300/- and if no post is available to absorb the applicant in scale of Rs. 1200-2040/- and fix up his pay according to the extant rules i.e. prayer no. 8(II) in the O.A.

3. Heard Mr. S.K. Ghosh, 1d. counsel for the applicant and Mr. P.K. Arora, 1d. counsel for the respondents. We have gone through all the averments made in the O.A. and the reply. No rejoinder has been filed by the 1d. counsel for the applicant.

4. During the course of hearing Mr. S.K. Ghosh, 1d. counsel for the applicant submits that the applicant shall be fully satisfied, if this application is disposed of with a direction to the respondent authorities to consider his representation dated 03.04.1996 enclosed as Annexure-'C' to this O.A., treating this application as part thereof by passing a reasoned and speaking order in accordance with a law within a stipulated period.

5. Respondents have filed the reply denying all the allegations made in the O.A. and also inter alia stating therein that the representation of the applicant has already been considered and disposed of. As against this statement of the 1d. counsel

for the respondents, Mr. Ghosh, ld. counsel for the applicant specifically submits that the respondent authorities have not considered the representation ~~nor~~ passed any order on the said representation nor communicated anything to the applicant in this regard. As such the application is still pending before the concerned authorities, not being disposed of in accordance with law. The respondents have not filed any order to that effect along with their reply. Mr. Arora, Ld. counsel submits that he has no specific instruction in this regard.

6. Considering the above submissions of ld. counsels for both the sides, in our view it would be just and proper in the best interest of justice, to direct the respondent authorities to reconsider the matter afresh and disposed of the representation dated 03.04.1996 enclosed as annexure-'C' to the O.A., treating this O.A. as part thereof within a reasonable period by passing a reasoned and speaking order.

7. In view of the observations made above, the respondent authorities more particularly respondent no.05 is directed to consider and dispose of the representation of the applicant dated 03.04.1996(Annexure-C) to the O.A.) afresh treating this O.A. as a part thereof within a period of 02 months from the date of communication of this order by passing a reasoned and speaking order in accordance with law and communicate the same to the applicant within a period of 02 weeks thereafter.

8. The O.A. is accordingly allowed. However, there shall be no order as to costs.

MEMBER (A)

MEMBER (J)