

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

M.A. No.545 of 1998
O.A. No. 767 of 1996

Present : Hon'ble Mr. Justice G. L. Gupta, Vice-Chairman
Hon'ble Mr. B.P. Singh, Administrative Member

Bankim Chandra Das, S/o Late Fakir
Chandra Das, working as Wireman (Grade
II/III), T.No.1327, Electrical Depart-
ment, Indian Government Mint, Alipore
Calcutta-700 053, resident of 49
Kalighat Road, Calcutta-700 026

... Applicant

VS

1. Union of India, through the
Secretary, Ministry of Finance, Govt.
of India, Central Secretariat,
New Delhi-1
2. General Manager, Indian Government
Mint, Alipore, Calcutta-700 053
3. Asstt. Works Manager (Electrical),
India Government Mint, Alipore,
Calcutta-700 053
4. Sri Tapas Kumar Das, Wireman (Gr.II
/III), Electrical Department, India
Government Mint, Alipore, Calcutta-53

... Respondents

For the Applicant : Mr. P.K. Munshi, counsel

For the Respondents: Mr. S. P. Kar, counsel

Heard on 9.05.2001 : : Date of order: 16-05-2001

O R D E R

G.L. Gupta, VC

In this application under Section 19 of the
Administrative Tribunals Act, 1985, applicant Shri Bankim
Chandra Das seeks promotion to the post of Wireman Gr.I on the
basis of requisition dated 11.4.96 and recommendation dated
16.4.96/17.4.96 in promotion Roll, and consequential benefits
with retrospective effect.

2. The facts stated in the application are that the
applicant after completing the period as Apprentice Wireman was
promoted to the post of Wireman Gr.II/III in the scale of



Rs.950-1400/- with effect from 1.7.1987 and he was the seniormost Wireman Gr.II/III at the relevant time. He was, therefore, allowed promotion on ad hoc basis to the post of Wireman Gr.I for various periods between 1992-93. Five posts of Wireman Gr.I were available in the respondents' office. Due to the sudden demise of Shri K.C. Chatterjee, Asstt. Mistry on 28.7.95 one post of Asstt. Mistry fell vacant. One Shri Shyamal Maitra being the seniormost Wireman Gr.I was entitled to be promoted to the post of Asstt. Mistry. In the resultant vacancy the applicant being the seniormost Wireman was entitled to be promoted to the post Wireman Gr.I and for that purpose his name was recommended by the competent authority of the respondents vide promotion Roll dated 16.4.96/17.4.96 (Annexure 'E'). The concerned respondent authorities had sent requisition for filling up the post of Wireman Gr.I stating that the post was of unreserved category. However, after recommending the name of the applicant the concerned respondent authorities sent another requisition on 11.6.96 stating that the vacancy was to be filled in by a reserved category candidate and the name of Shri Tapas Kumar Das, respondent No.4 was recommended. The applicant's case is that the said act of the concerned respondent authorities in stating that the post was to be filled up finally by reserved category was arbitrary, malafide, illegal and in violation of the principle of natural justice. Thereafter the applicant made two representations on 11.10.95 and 15.11.95, but the respondents have not paid any heed to them. It has been prayed that the promotion to the post of Wireman Gr.I be made on the basis of the requisition dated 11.4.96 (Annexure 'D') and recommendation dated 16.4.96/17.4.96 (Annexure 'E') in promotion Roll and the applicant be given promotion with retrospective effect.

3. The case set up by the official respondent Nos. 1,2 and 3 in the reply was that the post was to be filled up by a person



of reserved category and there was no malafide or illegality in the action of the respondents. In the rejoinder filed by the applicant the facts stated in the application have been reiterated. The respondent No.4 has not appeared despite service:

4. We have heard the learned counsel for the parties and perused the records of the case. It is relevant to point out that during the pendency of this OA the respondents have given promotion to the applicant to the post of Wireman Gr.I with effect from 30.12.97 vide Diary Order dated 2.9.98. Thereafter the applicant filed MA informing this fact to the Tribunal and also requesting that the promotion be given with retrospective effect from 1.1.1996.

5. The very fact that the respondents have given promotion to the applicant in preference to the reserved category candidate goes to show that the stand taken by them in the reply is not correct. It is obvious that the post was meant for the category of unreserved candidate. During the course of arguments learned counsel for the respondents also could not satisfy us as to how the post was meant for reserved category candidate.

6. The document Annexure 'D' is signed by some officer whose designation is A.D.O. The contention of learned counsel for the respondents that this Annexure 'D' is unsigned, cannot be accepted since signatures with date 11.4.96 are visible on this document. So also in the promotion roll Annexure 'E', signatures of Electrical Engineer with date 17.4.96 are also visible. On the contention of the learned counsel for the respondents that these documents do not bear the signatures of the authority purported to have been shown thereon, we directed him to produce the original documents, but he failed to produce the originals. As such, there is no reason to doubt the genuineness of the documents, particularly when now the

A handwritten signature in black ink, appearing to read "R. S. Jaiswal".

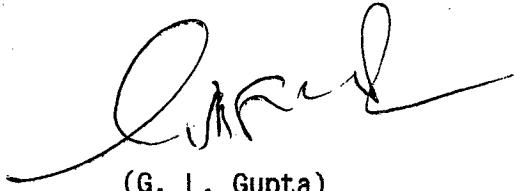
respondents themselves have accepted the case of the applicant and have given him promotion vide diary order dated 2.9.98. It has, therefore, to be found that the action of the respondents' concerned authority in sending the second promotional roll dated 12.6.96 was improper and without any cause.

7. Be that as it may, the applicant has been granted the relief and he has been given promotion treating the post as of unreserved category. The applicant's request that he should be given promotion with effect from 1.1.1996 cannot be accepted. It is not the case of the applicant that any person junior to him has been given promotion before his promotion to the post of Wireman Gr.I with effect from 30.12.97 vide diary order dt. 2.9.98. It is not mandatory that the promotion should be given to an incumbent on the date the post falls vacant. There can be various reasons for not ordering promotion soon after the vacancy occurs. It is true that there should not be inordinate delay in making the promotion. However, there is no indefeasible right of an employee to get promotion from the date the post falls vacant.

8. Consequently the OA succeeds only with regard to relief No.1. The applicant has already been given promotion. The applicant shall get costs of Rs.1000/- from the official respondents. No order is required to be passed in M.A. It stands disposed of.

B. P. Singh
(B. P. Singh)

MEMBER (A)


(G. L. Gupta)

VICE-CHAIRMAN