

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA 400/1996

Calcutta this the 13th day of January, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S. Biswas, Member (A)

Krishna Pada Sen
Son of Late A.C. Sen,
working as Painter Gr. III,
residing at Vill. & P.O. Changual,
Distt. Midnapur.

..Applicant

(By Advocate Md. Yamin Ali)

VERSUS

1. Union of India, through the
General Manager, South Eastern
Railway, Garden Reach, Calcutta-43

2. The Chief Personnel Officer,
South Eastern Railway, Garden
Reach, Calcutta-43.

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3. The Chief Signal & Telecom. Engineer,
S.E. Railway, Garden Reach, Calcutta.

4. E. Kujur, Painter Gr. II, Signal
Workshop, Kharagpur, S.E. Rly.

..Respondents

(By Advocate Shri T.P. Biswas)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

In this application, the applicant is aggrieved by the action taken by the respondents and has prayed for a direction to the respondents to consider his case for promotion to the post of Painter Grade II in Signal Workshop.

2. The applicant has submitted that the respondents have acted in a ^{have} illegal manner and promoted his junior, respondent No. 4, Shri E. Kujur, to the aforesaid post. Applicant has contended that when vacancy of the post of Painter Grade II had arisen in the permanent cadre in Signal

js.

Workshop, the applicant's name should have been considered for promotion and by ignoring his claim, the respondents have acted arbitrarily, illegally and in violation of ~~the~~ Articles 14 and 16 of the Constitution of India. He has contended that against this post, the applicant ought to have been considered as this post was not reserved and, therefore, the respondents have acted against the rules. He has, therefore, prayed for a direction to the respondents to consider his claim, as according to him his junior, respondent No.4 could not have been considered.

3. The respondents in their reply have submitted that they have taken action in accordance with the rules. Shri T.P.Biswas, learned counsel for the respondents has submitted that as per Ann.R.1 letter issued by the respondents dated 23.11.1984, respondent No.4 who is a ST candidate had passed the Trade Test for Painter Grade III. They have, therefore, submitted that inclusion of the name of respondent No.4 in the seniority list of Painter Grade III is ~~is~~ legal and he was promoted against an existing vacancy. They have submitted that the 4th point of Ist cycle which was reserved for ST candidate and as ~~the~~ respondent No.4 was the senior most ST candidate in the seniority list of Painter Grade III he was promoted. They have, therefore, stated that respondent No.4, although junior to the applicant has been given promotion in accordance with the extant rules as he was a ST candidate, against the post reserved for ST candidate.

4. Learned counsel for the applicant has been heard in reply and we have also seen the rejoinder filed by the applicant. He has contended that the respondents have agreed that the applicant was senior to respondent No.4. He

has more or less reiterated his contentions in the application that under the forty point roster, the 4th post in question could not have been reserved for ST candidate.

5. After careful consideration of the pleadings and the submissions made by the learned counsel for the parties, we find no illegality in the action taken by the respondents. Even as per the averment given by the applicant in the rejoinder, 4th point in the forty point roster is stated to be reserved for a ST candidate. In the facts and circumstances of the case, nothing has been placed on record to show that this post was meant for ^{a 18/2} Genl. candidate and not for ^{a 18/2} ST candidate. In this view of the matter, we find no merit in this application. The same is accordingly dismissed. No order as to costs.

S. Biswas

(S. Biswas)

Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)

Vice Chairman (J)

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