

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

OA. NO. 510 of 1996

Date of order : 7.12.2001

Present : Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman

Hon'ble Mr. S. Biswas, Administrative Member

SHYAM SUNDER

VS

UNION OF INDIA & ORS (E RLY.)

For the applicant : Mr. P.C.Das, Counsel

For the respondents : Mr. R.M.Roychowdhury, Counsel

O R D E R

Per Justice D.N.Chowdhury, V.C.:

The controversy relates to the promotion to the post of Shunting Jamadar. The applicant in this applications claims that he was one of the seniormost Shutmen working under the respondents. He was stated to be senior to Shri Bhola Mondal and Ramji Prasad. It is contended that even though the applicant was senior to them, they were promoted to the post of Shunting Jamadar in the grade of Rs. 1200-1800/- ignoring his claim. It is submitted that on the strength of the order of the Station Manager, Bhagalpur, the applicant was working as Shunting Jamadar from 1.2.92 to the date of issue of the letter at annexure-D dt. 7.4.94 against the vacancy caused by the retirement of one Shri C.Pandey. It is alleged that since the applicant was senior to the above-mentioned two persons and was officiating in the post of Shunting Jamadar, his case for regular promotion ought to have been considered by the authorities before giving promotion to his juniors. It is also alleged that although the applicant had been officiating as Shunting Jamadar for the aforesaid period, he was not even paid his officiating pay in the higher post.

2. The respondents have contested the claim of the applicant by filing a written statement wherein it is stated that the post of

Shunting Jamadar is a selection post and for promotion to the said post, a selection test consisting of written test followed by viva-voce test, was held in July 1995. In the said selection, the applicant was also called to appear along with his juniors as per rules. However, the applicant could not qualify in the said selection and hence he could not be given promotion to the higher post.

3. In the written statement, the respondents did not dispute that the applicant was asked to look after the work of Shunting Jamadar for certain period. But according to them, this was only as a local and ad hoc arrangement without issuing any order as such. Therefore, the question of payment of salary of the higher post did not arise.

6. We have heard the learned counsel for both parties at length.

7. Mr. P.C.Das, ld. counsel for the applicant has stated and contended that as a senior person, the applicant was entitled to promotion to the higher post of Shunting Jamadar and at any rate, there was no justification in not giving him the officiating pay of Shunting Jamadar in the scale of Rs. 1200-1800/- for the period he officiated in the higher post. By referring to annexure-D dated 7.4.94, Mr. Das submitted that this order clearly indicates that the applicant was allowed to officiate in the scale of Rs. 1200-1800/-.

8. The ld. counsel for the respondents by referring to the same order submitted that the aforesaid arrangement was done by the Station Manager, Bhagalpur, who had no authority to give promotion to higher posts. In fact, in the last paragraph of the order, the Station Manager himself has requested the competent authority to issue necessary officiating charge order in favour of the persons mentioned therein including the applicant for smooth functioning of the Yard.

The ld. counsel also contended that it is not correct that the applicant was denied promotion to the higher post of Shunting Jamadar

illegally. In fact, in the selection process, he was also allowed opportunity to appear but he could not come out successful and hence, he could not be promoted and his juniors having qualified in the selection, were promoted. There is, therefore, no illegality or irregularity in the non-promotion of the applicant as alleged.

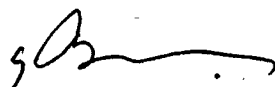
9. We have given our anxious consideration to the rival contentions and the materials on record. Since the applicant was given due opportunity to qualify himself in the selection for promotion to the post of Shunting Jamadar, which is a selection post, and when he could not qualify in the said selection, it cannot be said that he was denied promotion illegally and arbitrarily. We, therefore, find no force in the argument of the ld. counsel for the applicant that he was superseded by his juniors illegally. In the facts and circumstances, of the case, we find no merit in this contention of the ld. counsel for the applicant.

10. As regards the other contention of the applicant regarding payment of officiating pay of Shunting Jamadar, it appears that no such order was issued by the competent authority in this regard and the order dt. 7.4.94 (annexure-D) itself indicates that the Station Manager, who admittedly is not competent to make such officiating arrangement, requested the higher authority to issue appropriate orders in this regard. However, it appears that no such order was passed by the competent authority and in the meanwhile, the applicant retired from service.


11. In our considered view, when admittedly, the applicant had worked in the higher post of Shunting Jamadar from 1.2.92 onwards, he should not be denied the pay of the post during the period he worked as such. We also find that the applicant made a representation to the authorities concerned for payment of the officiating pay of the higher

post vide annexure-E. We are of the opinion, that ends of justice will be met, if a direction is issued to the respondents to consider that representation for giving officiating pay to the applicant for the period he worked as such as per rules wherein he discharged higher responsibility, especially considering the fact that the applicant has since retired from service.

12. We, therefore, dispose of this application with a direction to the respondent authorities to consider the representation of the applicant regarding payment of officiating pay of Shunting Jamadar for the period he worked in the higher post and we expect that the respondents shall take prompt measure to consider the case and pass appropriate order within three month from the date of communication of this order. No costs.



MEMBER(A)



VICE CHAIRMAN