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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR.**

Original Application no. 156/2007.

Date of decision : 01.03.2007

Hon'ble Dr. K.B.S. Rajan, Judicial Member.

Hon'ble Mr. Tarsem Lal, Administrative Member.

Laxman, S/o Kumbha, by caste Jat, aged about 52 years, resident of Q. No. T-51 D, Railway Goods Colony, Bikaner, at present working as Tech II A/C(F) in the office of SSE (A/C), elect, North Western Railway, Bikaner.

: Applicant.

Rep. By Mr. Nitin Trivedi : Counsel for the applicant.

VERSUS



1. Union of India through the General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, North Western Railway, D.R.M's Office, Bikaner.
3. The Divisional Personnel Officer, North Western Railway, Bikaner.
4. The Divisional Electrical Engineer, North Western Railway, Bikaner

: Respondents.

Rep. By Mr. Salil Trivedi : Counsel for the respondents.

ORDER

Per Dr. K.B.S. Rajan, Judicial Member.

By virtue of order dated 03.08.2006, (document taken on record today), substantive portion of the grievances of the applicant stand redressed. What is left out is the actual date of promotion of the applicant as Tech -II AC

[Signature]

- 2 -

2. Briefly stated the undisputed facts of this case are that the applicant joined the Railways as early as in the year 1976 and he had passed requisite trade test in 1999 and posted as Technician Gr. III. The post of Technician Gr. III stood abolished in the year 2003, whereby the applicant was declared surplus. The applicant was thereafter accommodated as Technician Gr. III (A/C) and formal orders were passed in May 2004 (Annex. A.3 refers). Vide Annex. A/4, in the seniority list of Technician Gr. III (A/C), the name of the applicant appears at Sl. No. 5. The date of joining of the applicant in the said post has been shown as 11.03.99/15.05.2004 and the remarks column indicates as Tech III/AC 15.05.2004. Vide Annex. A/1 dated 18.05.2005, the respondents have called for the persons mentioned therein to appear in the trade test for Tech Gr.II (AC) in which the name of the applicant does not figure in. The applicant therefore submitted a representation stating that his juniors were called for to appear in the trade test but he was not called for the same. Having found no joy, the applicant moved the present O.A. Later on, the applicant was allowed to participate in the trade test, the result of which was declared on 19.07.2006.

2. The question to be considered at this juncture is as to what should be date of promotion of the applicant as Tech Gr.II AC. According to the applicant vide paragraph 4.3. of the O.A, after being rendered surplus immediately he was asked to



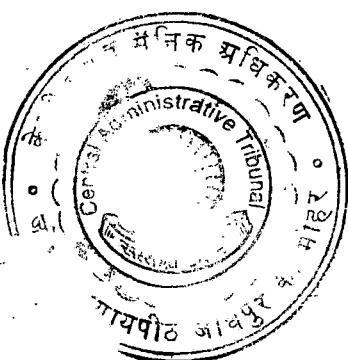
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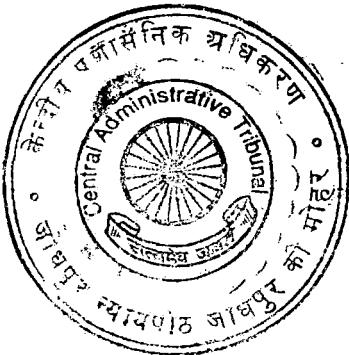
function as Technician Gr. III (A/C) and it was only in May 2004, the formal orders were issued. As such counsel for the applicant contends that his services as Technician Gr. III (A/C) should be taken with effect from February 2003.

3. This has been disputed by the respondents, since according to them formal notification dated 15.05.2004 alone will be taken into consideration. The applicant has not substantiated his averment by producing any documentary evidence nor has he challenged the seniority list wherein it is clearly stated that the date of joining as Technician Gr. III (A/C) is 15.05.2004. In view of the above it has to be taken into account that the date of joining by the applicant as Technician Gr. III (A/C) is only from 15.05.2004 and as such his entitlement for promotion to the grade of Tech -II /AC is only from 15.05.2006. Further the order dated 03.08.2006, clearly stated that the promotion orders are provisional and subject to decision of various court cases on reservation issue pending before Supreme Court/High Court/CATs. Independent of the same also, we are of the considered view that that the promotion of the applicant should be ante dated with effect from 15.05.2006 or with effect from the date when his immediate junior was promoted to Tech -II /AC post which ever is earlier and his pay should be fixed in the higher scale notionally from that date till the actual date of promotion. This



- 4 -

is in accordance with the provisions of para 214(IREM) Vol. I read with P.S. No.11649. We accordingly order.



4. The O.A is disposed of as above. The respondents are directed to pass a suitable order in regard to pay fixation on the above lines within a period of two months from the date of communication of this order. No costs.

Tarsem Lal
(Tarsem Lal)
Administrative Member

Dr. K.B.S. Rajan
(Dr. K.B.S. Rajan)
Judicial Member.

Jsv.

Dev
2/3
R/C
Punit
6367
(for sale/timed)

Part II and III destroyed
in my presence on 26/3/1974
under the supervision of
section officer (1) as per
order dated 26/3/1974

Section officer (Record)