

In the Central Administrative Tribunal
Calcutta Bench

No. OA 704/97

6-8-2003

Present : Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman
Hon'ble Mr. S. Biswas, Member(A)

Tamal Banerjee

-Vs-

S. E. Rly

For the applicant : Mr. B.C. Sinha, Counsel

For the respondents: Mr. P. Chatterjee, Counsel

ORDER

Per Mr. Justice B. Panigrahi, V.C.

The applicant was appointed on compassionate ground since his father died in harness as Dy. Chief Electrical Engineer as a Clerk in CEE-GRC at Garden Reach. He is a Graduate from Calcutta University and appointed as a Junior Clerk in the scale of pay of Rs950-1500/- (RPS) on and from 1-11-1989. In course of time he was promoted to the post of Senior Clerk (Rs1200-2040/-) in CEE's Office at Garden Reach and his pay was accordingly fixed under FR 22C.

2. The Railway Board issued order dated 18-6-81 for restructuring of cadre of Ministerial Staff of Departments other than Personnel Branch, wherein an element of Direct Recruitment to the extent of 20% had been reserved in the cadre of Senior Clerk for graduates of recognised University. It was further decided as a measure of incentive to the serving Graduate Junior Clerk of various Departments a channel of promotion on direct recruitment basis to the extent of 13 1/3 % of the total posts so introduced by competitive examination through the Rly Service Commission (now RRB). The applicant being found eligible also

appeared in the written test as well as viva-voce test conducted by the Railway Recruitment Board, Calcutta and was granted appointment in CEE's office at Garden Reach. For sometime the services of the applicant was placed with the CME's office. On latter's request he was again reverted to the parent Department of C.E.E. Since then he was working in the establishment of CEE with effect from 6-3-95. The opposite parties published a seniority list on 21-11-96 and his position was initially fixed at Sl No.18, just below the Departmental Promotees. Being aggrieved by such seniority position, he made a representation to the authorities vide Annexure A10 to the OA. Accordingly, the respondents had allowed his representation on the basis of Rule 306 placed him just above the departmental promotees, but latter on after a representation being given by the Union, it was reviewed and his position in the seniority list was lowered down and he has been placed just below the Departmental promotees. Therefore, he has filed this OA to restore his seniority as before.

3. On perusal of the reply submitted by the respondents it is found that after considering the representation submitted by the applicant, they placed him just above the Departmental Promotees, in accordance with the provisions of Rule 306. They have also further admitted to have lowered the seniority position after a representation was submitted by the Union. We failed to understand as to how such decision was reviewed only after the interference of the Union, particularly when the rule postulates that his position should be above the Departmental Promotees. On perusal of the reply we further noticed that the promotion of the Departmental Candidate was given much later than the appointment of the applicant. The relevant portion of the reply is as under :

"5.(g) Provisional seniority list of Sr.Clerks of Chief Electrical Engineer's Office published on 1-5-1996 was circulated on 23-5-1996 (Annexure A-9/Page 20 of the OA) wherein Shri Tamal Banerjee, applicant was shown against Sl. No.18 below the 17 Nos. Departmental promotees.

h) Then Shri Tamal Banerjee submitted a representation dated 17-6-1996 (Annexure A-10/page 25 of OA) to Chief Personnel Officer explaining that he has been empanelled through Railway Recruitment Board as Sr.Clerk with effect from 6-3-1995 against Direct Recruitment Quota earlier than the Departmental Promotees who are empanelled as Sr. Clerk on 14-9-1995, he should be placed before Departmental Promotees in the seniority list of Sr.Clerks of Chief Electrical Engineer's office in terms of para 306 of Indian Railway Establishment Manual (1989 edition).

i) The Chief Personnel Officer considered his representation dated 17-6-1996 and he was given proforma seniority as Sr.Clerk with effect from 6-3-95 (Annexure A11/ page 27 of the OA).

4. In view of above discussions, we are constrained to set aside the impugned letters dated 21-1-97, 27-2-97 and 20-5-97 whereby and whereunder the applicant's seniority position was lowered and direct the respondents to place the applicant as before, i.e. just above the Departmental Promotees of that year. With the above direction, the OA is disposed of. No order as to costs.

S. Banerjee

Member(A)

Banerjee

Vice-Chairman