

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

No. O.A.771 of 1997

Date of Order: 03.02.05.

Present: HON'BLE MR. JUSTICE B. PANIGRAHI, VICE-CHAIRMAN
HON'BLE MR. N.D. DAYAL, ADMINISTRATIVE MEMBER

P. APPA RAO

- V E R S U S -

S.E. RAILWAY

FOR THE APPLICANT : Mr. A.K. Banerjee, counsel.
Mr. S. Mahapatra, counsel.
FOR THE RESPONDENTS : Mr. S. Choudhury, counsel.

ORDER

PER JUSTICE B. PANIGRAHI, VC:

In this case there has been a challenge made by the applicant for rescinding, withdrawing, revoking and /or cancelling the order No. EEANR/KSI(H)/SRTY dated 10.2.1997 issued by the Divisional Personnel Officer, South Eastern Railway, Kharagpur being Annexure-'F' to the application and to publish the seniority list incorporating the name of the applicant in appropriate position considering the length of service in the post of fitter and further order be made asking the respondents to give promotion to the applicant in the higher grade which has been granted in case of two other

3

similarly circumstanced junior employees of the same cadre and to give further service benefits by fixing the scale of pay of the applicant and also to provide other consequential benefits arising thereto.

3. The applicant was appointed as a casual Khalasi on 5.5.1965 and became substitute Khalasi on 5.11.69. In course of time, he was also appointed as a temporary Khalasi. The applicant's medical examination was completed on 6.10.69 for his regularisation. It is submitted that although some other junior staff to the applicant had been regularized as Khalasi, but his case was not considered for skilled grade. It seems that he made several representations for considering his grievance and to place him proper position in the seniority list. But the respondent authorities paid least heed to those representations and sat over the matter till the date of the filing of this application.

4. Mr. Banerjee, ld. counsel appearing for the applicant has submitted that had the case of the applicant been considered in time, he ought to have been given promotion to the post of fitter, but due to casual attitude of the respondents he lost all financial benefits including the financial upgradation scheme as provided after implementation of 5th Pay Commission recommendations. While winding up his argument a further submission has been made that the applicant shall retire in February 2006 and till date no financial benefit has been given.

5. Mr. Choudhury, ld. counsel appearing for the official respondents has submitted that the seniority list of the employees cannot be determined in the absence of those whose seniority is likely to be affected. It appears that in the

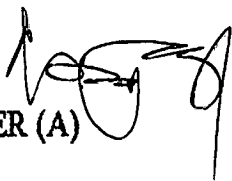
Banerjee

application that their names have not been figured. In case their seniority position is determined in their absence substantial injustice shall be made to them. We find there is much force in his submission.

6. Be it noted that the respondents are unable to state whether the applicant has been given any financial benefits under the A.C.P. Scheme after implementation of the 5th Pay Commission recommendations. From the fact situation, it has further emerged that the applicant has been disengaged as Semi-skilled workmen from Khalasi, but no further financial benefit has been given till date. Accordingly, we hereby direct that even without determining the seniority position of the applicant vis-à-vis other staff the respondents shall provide all financial benefits under A.C.P. Scheme, if the applicant is found eligible. Accordingly, they shall examine the applicant's case in accordance with financial upgradation scheme and in case he is found eligible, provide the same to him within six months from the date of communication of this order.

No costs.

MEMBER (A)



VICE-CHAIRMAN

