

In the Central Administrative Tribunal
Calcutta Bench

OA No.1463/97

Present : Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman
Hon'ble Mr. N.D. Dayal, Member(A)

Moni Mohan Das

-Vs-

E. Rly

For the applicant : Mr. D.N. Chatterjee, Counsel
Mr. A. Boral, Counsel

For the respondents : Mr. M.K. Bondyopadhyay, Counsel

Date of Order : 1-9-04

ORDER

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

The applicant was originally appointed in Group 'D' category in the scale of Rs750-940/- and Rs775-1025/-. After sometime when there were a lot of vacancies in the cadre of Shuntman, he was called to give option to fill-up the vacancies of Shuntman Grade II in the scale of Rs800-1150/-. The Shuntman II is a promotional grade for Group 'D' cadre. Prior to taking option, the respondents felt the necessity for the existing non-Technical Grade 'D' Staff working against chain vacancies of Shuntman could be absorbed directly without any suitability test, after only taking prolonged services into consideration. The applicant is one of the successful candidate found suitable in the test held on 8-5-95. At the time of such test seniority of all those eligible candidates was not the criteria. Therefore, once again another suitability test was conducted and all the eligible candidates were required to exercise their option. In January, 1996 a crisis appeared to have been suddenly cropped up due to increase in work load in Budge Budge Rly Yard. In order to meet the situation, the administration issued Office Order to only eight staff among the successful candidates out of one hundred, by giving promotion to Shuntman irrespective of their seniority. Those eight persons who were promoted to the post of Shuntman had joined service in such capacity at Budge Budge. The applicant was one of such

successful candidates. Such transfer was effected at the option of the applicant to be posted at Budge Budge. After sometime it appears that the applicant was reverted to his original post from Shuntman to Porter by the order passed by the respondent No.3 dated 10-11-97. Therefore, being aggrieved by such order of reversion he has filed this case. It appears that the applicant has claimed to have filed an appeal before the Divisional Rly Manager vide Annexure A/8 of the O.A. which of-course is disputed by the respondents. Therefore, in the above situation the applicant has claimed for following relief :

(a) allowing the applicant to continue in the post (Shuntman) which he is holding for about two years.

(b) to quash or set aside the order dated 10-11-97.

2. From the reply filed by the respondents it appears that since the applicant himself was not interested to accept the promotion and further he did not exercise his option to be posted as Shuntman, therefore he was not given such promotion. In their reply in paragraph 5 the respondents have stated that there was a circular for filling up the post of Shuntman after the impugned order of reversion was passed. The applicant was asked to exercise his option for considering his case but he failed to opt for promotional post.


3. Mr.Chatterjee, the learned counsel for the applicant has submitted that his client was not contacted to exercise his option for joining in the promotional post. Had such option been asked from the applicant, he could have answered positively that he was willing to join.

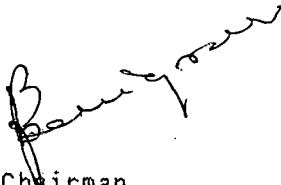
4. Mr.Bondyopadhyay, the learned counsel for the respondents has invited our attention to a letter purported to have been submitted by the applicant on 24-1-03 to the effect that he was no longer interested to accept the post of Shuntman.

5. Upon hearing the learned counsel for both sides, we are of the considered opinion that if the applicant is not himself interested for his promotion then there is no sense in issuing any direction to the respondents for considering the case of the applicant. But since such exercise of option is not disputed, we therefore direct the applicant

to exercise his further option within 3 weeks from the date whether he is willing to join the post of Shunter or not. It is for the respondents to consider his case depending on the vacancy in Shunter category. In case, such option is not exercised within the aforesaid period, then his case for promotion may be ignored in future and the letter purported to have been given on 24-1-03 by the applicant shall be operative.

6. With the above observation, the OA is disposed of. No costs.


Member (A)


Vice-Chairman