

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 302 of 1997

Date of Order: 24.11.2004

Present : Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member
Hon'ble Mr. M.K. Misra, Administrative Member

NARENDRA KUMAR

VS.

UNION OF INDIA (EASTERN RAILWAY)

For the applicant : None

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

O R D E R (ORAL)

Mr. Mukesh Kumar Gupta, JM:

Notice dated 16.8.2004 was sent to the applicant requiring him to engage counsel as earlier counsel had expired. Neither the AD card nor the notice have been returned. Therefore, service of the same, as more than three months expired since then, is presumed. None appeared for the applicant. As such by invoking Rule 15 (1) of CAT (Procedure) Rules, 1987 we decided to proceed with the matter based on pleadings available on records.

2. By the present application, validity of the office order dated 20.9.1995 (Annexure-B) has been challenged, besides seeking direction to the respondents to promote the applicant to the post of Sr. C.I. in the pay scale of Rs.2375 - 3500/- retrospectively from the date when the respondents Nos.8 and 10 were promoted.

3. On perusal of the OA we find that the applicant's case is that he was superseded by the aforesaid respondents for promotion to the post of Sr. Claim Inspector and the respondents did not consider his case for promotion objectively and fairly. The applicant was not aware of the said supersession and when he came to know, he made a

detailed representation dated 30.1.1996 (Annexure-C), which he has not been dealt with and considered. No communication has been received from the respondents despite reminders sent on 26.2.96, 24.5.96 and 2.8.96. It is further contended that no steps were taken by the respondents to redress his grievances and hence, the present OA. It is contended that the applicant is senior to respondents 8 & 10 and therefore, the said respondents should not have been allowed to supersede him in the matter or promotion, which is violative of Articles 14, 16 & 21 of the Constitution of India.

4. The respondents have filed their reply & contested the applicant's claim on the ground of limitation as well as on merits. It is contended that the merit list of Commercial Apprentice including the applicant was communicated vide CPO/ CCO letter dated 7.1.92, which remained unchallenged. The respondent Nos. 8 & 10 were appointed initially in Malda Division as Apprentice and subsequently, they were transferred to Howrah and Sealdah Divisions, while they were undergoing training in Malda Division as Apprentice. Respondents 8 & 10 were posted as CTI/ Claim (Prevention)/ CCM and CTI/ Claim/ CCM vide order dated 29th Jan. 1991. The seniority of the applicant as well as the respondents are maintained separately & they are working in different stations. The applicant was assigned seniority in the Division in the grade Rs.1600 - 2660 w.e.f. 5.12.1988 and according to the available vacancy he has been promoted to the grade Rs.2000 3200 w.e.f. 1.3.1993. The promotion to the next higher post, to which the applicant is seeking promotion, is based on seniority of the grade of Rs.2000 - 3200. The respondents 8 to 10 were promoted to the grade of Rs.2375 - 3500 due to separate restructuring of Claim Inspector w.e.f. 1.3.1993. Since the applicant's seniority along

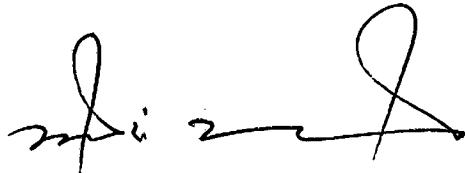
with the respondents 8 to 10 is maintained separately having different channels of promotion, comparison of seniority of the applicant with the respondents 8 to 10 did not arise.

5. We have given our careful consideration to the above facts and heard Mr. Roychowdhury, Ld. Counsel for the official respondents. Since the applicant's as well as respondents 8 to 10 seniority is maintained separately, we do not find any justification in accepting the applicant's contention. We find & hold that respondents 8 to 10 were not comparable.

Hence, the claim of the applicant is misconceived and therefore, the present application has no merit. Accordingly, it is dismissed. No costs.



(M.K. Misra)
Member (A)



(Mukesh Kumar Gupta)
Member (J)

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