

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

O.A. 349/1997

Date of order: 26.02.2004

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

D.A. Rammayya & Anr.

- V e r s u s -

Union of India and Ors.

(S.E. Railway)

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

For the respondents : Mr. P.K. Chatterjee, counsel.
Mr. A. Chakraborty, counsel(Pvt respdt).

O R D E R

Per Justice B. Panigrahi, VC

In this application, there has been a prayer against the official respondents Nos. 1 to 6a act upon the office order dated 28.8.96 in the matter of correction of seniority position of the applicants vis-a-vis Pvt. respondent Nos. 7 to 9. It is averred in the application that the applicants as well as the Pvt. respondents were selected as Intermediate Apprentice Mechanics (Elect) vide CPO's letter dated 8/9.10.90. In the said selection, the name of D.A. Ramayya, the applicant No.1, was against the Sl. No. 53 whereas the name of T.D. Naidu, applicant No.2, was in Sl. No. 113. Similarly, S.K. Pattanaik occupied 86th position (Respondent No.7), P.R. Singh (Respondent No.8) occupied 120th position and M.K. Roy (Respondent No.9) occupied 128th position.

2. Subsequently the applicants as well as Pvt. respondents were sent for training for a period of two years and on completion of their successful training, their seniority position was once again revised wherein T.D. Naidu's name was mentioned against the Sl. No. 25. Similarly,

D.A. Ramayya's name was placed at Sl. No. 35, S. Pattanaik's name at Sl. No. 31, M.K. Roy's name at 17 and P.R. Singh's name at 49 respectively. After completion of training, the applicant No.1, D.A. Ramayya was posted at Tikiapara whereas the other applicant T.D. Naidu was posted at Nagpur. Similarly, the Pvt. respondents M.K. Roy was posted at Bilaspur, S. Pattanaik and P.R. Singh also at Bilaspur. But however, the Pvt. respondents made a representation for postponement of their posting at a future date and to allow them to work in their previous place of posting due to their domestic problems. The respondent authorities, however, passed an order on 9.3.93 (Annexure-A/3) that the representation of the Pvt. respondents will be considered at an appropriate stage and, therefore, they were allowed to continue in their previous posting. Subsequently the applicants made representation for posting them to Kharagpur whereby they had agreed to accept the bottom seniority whereas the Pvt. respondents on the basis of their original representation were promoted and posted at Kharagpur. It was also indicated in the order that all of them should accept bottom seniority at Kharagpur on the date of their joining.

3. The core issue arises for our consideration is as to what will be their inter se seniority positions. It is true that the applicants were promoted and posted outside Kharagpur earlier than the Pvt. respondents. Had they continued in their previous station, it goes without saying that they ought to have been ranked senior to the Pvt. respondents. But since they came back once again to Kharagpur at their own request by accepting bottom seniority, the question, therefore, has emerged as to whether the Pvt. respondents would be senior to the applicants or vice-versa.

4. Mr. Chatterjee, Id. counsel appearing for the official respondents has been asked to produce the file pertaining to the date of joining of the Pvt. respondents as well as the applicants at Kharagpur. From the

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file, it has appeared that Pvt. respondents S. Pattanaik joined in the promotional post on and from 13.10.93, so also M.K. Roy, but the Pvt. respondent P.R. Singh joined on 20.10.93. It is true that the applicant D.A. Ramayya joined on 9.3.93 at Nagpur and T.D. Naidu at Tikiapara on 1.3.93. But they made representation to come back to Howrah which was allowed and accordingly they joined on 9.1.94 and 9.3.94 whereby they accepted the bottom seniority.

5. Mr. Sinha, Id. counsel appearing for the applicants has fervently pleaded that it is true that the Pvt. respondents might have joined earlier at Kharagpur, but their promotion and posting was during the period of debarment period and if due seniority is to be given to them, it would amount to nullify the original order of debarment and in other words, the applicants shall be penalised for obeying the order of promotion by which they had been asked to go outside their previous place of posting.

6. We appreciate the real anxiety of the applicants, but in this case from the order passed by the authorities, nowhere it was indicated that the Pvt. respondents had been debarred for being considered for promotion within a period of one year of their request to defer the promotional post. The authorities have also been given unfettered right to defer promotion to individual cases due to certain domestic problems and in this case they had deferred promotion of the Pvt. respondents keeping in view their domestic problems and it was only made effective from the date when they had joined at Kharagpur i.e. from 13.10.93 and 20.10.93. Obviously, the Pvt. respondents have ~~not~~ attained station . . seniority over the applicants. Therefore, the seniority list prepared by the official respondents cannot be disturbed.

7. With the above observation the application is dismissed. No costs.


Member (A)


Vice-Chairman.