

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A.428 of 1997

Date of Order:6.12.2004

PRESENT : HON'BLE MR. MUKESH KUMAR GUPTA, JUDICIAL MEMBER
HON'BLE MR. M.K. MISHRA, ADMINISTRATIVE MEMBER

B.D. PAUL

VS.

UNION OF INDIA AND ORS. (E. Rly.)

For the Applicant : Mr. B. Chatterjee, Counsel

For the Respondents : Mr. M.K. Bandyopadhyay, Counsel

ORDER (O R A L)

MR. MUKESH KR. GUPTA, J.M.:-

By the present application, the applicant seeks direction to respondents to select him to the post of Chief Weigh Clerk Gr.1 being eligible as well as not to hold any viva voce test till applicant's grievance is redressed with all consequential benefits.

2. The facts as stated are that he is working as Chief Weigh Clerk Grade-II at Salanpur Branch siding within Sitarampur jurisdiction. He was promoted to the said Grade from 27.3.1996 and posted at Katras from Bhanora. He was senior to one Sri R.S. Prosad. The applicant had refused promotion to the post of Chief Weigh Clerk sometime in the year 1981 for some personal reasons but he was promoted subsequently. He was not aware when R.S. Prosad was called for promotion to the post of Chief Weigh Clerk Grade-II and therefore he could not lodge his protest against his supersession by the said officer. The applicant was entitled to promotion to the post of Chief Weigh Clerk Grade-I, as he was eligible but neglected by the respondents, which violates Articles 14 and 16 of the Constitution of India.

3. The respondents in their reply contested the applicant's claim and stated that the applicant was promoted as Weigh Bridge Clerk in the pay scale of Rs. 330-560/- w.e.f. 6.5.1978 and Head Weigh Bridge Clerk in the pay scale of Rs. 425-640/- w.e.f. 1.1.84. The applicant was also promoted as Chief Weigh Bridge Clerk in the pay scale of Rs.1600-2600/- and posted to Patratu, but he did not join the said promotional post upto 31.12.1991. The penalty of stoppage of increment for four years, effective from 1.1.92 was in operation and

therefore the penal was treated as cancelled vide Annexure 'R'. The applicant was promoted to the said post of Chief Weigh Bridge Clerk w.e.f. 11.5.96 after completion of penalty period and posted from KTH to Kumardhobi w.e.f. 25.2.1997 and from Kumardhobi to Salanpur w.e.f. 7.4.97. Sri R.S. Prosad, was promoted as Chief Weigh Clerk w.e.f. 26.1.92 and therefore became senior to the applicant. On the other hand the applicant joined the post of Chief Weigh Clerk w.e.f. 11.5.96. In terms of the Railway Board order circulated under Sl. No. 24/94, an employee who had completed 18 months of service in their existing grade, was to be considered for promotion as in the normal zone of consideration. Since the applicant had not completed 18 months of service w.e.f. 11.5.1996, he was not called for written test for promotion to the post of Chief Weigh Clerk Grade-I in the pay scale of Rs.2000-3200/-.

4. We heard ld. counsel for the parties and perused the pleadings.

5. It is not disputed that under the Railway Board order under Serial No. 24/94, dated 27.1.93, as noted hereinabove, minimum eligible condition is two years, which condition was not satisfied by the applicant. No appointment/promotion can be ordered in breach of the eligible condition prescribed under the rules/orders in force. It is an admitted fact that the applicant was promoted as Chief Weigh Clerk w.e.f. 11.5.1996 and therefore had not completed the eligibility condition.

6. In view of the above, we do not find any illegality in the respondents action in considering and holding written test for the aforesaid post on 27.3.1997 excluding the applicant. Accordingly, the present application is bereft of any merits and the same is dismissed.

No costs.

(M.K. MISHRA)
MEMBER(A)

(MUKESH KR. GUPTA)
MEMBER(J)