

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 423 OF 2010

Wednesday, this the 11th day of January, 2012

CORAM:

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

N.Ramachandran.
Junior Engineer (Telecom)
Southern Railway , Shornur
Residing at Lakshmi Nivas (Vettickalil)
Pulluvazhy PO
Perumbavoor

Applicant

(By Advocate Mr. T.A.Rajan)

versus

1. Union of India represented by the General Manager
Southern Railway, Park Town PO, Chennai - 3
2. The Chief Personnel Officer
Southern Railway, Chennai.
3. The Chief Communication Engineer
Southern Railway, Chennai.
4. The Senior Divisional Signal & Telecommunication Engineer
Southern Railway, Palghat
5. The Senior Divisional Personnel Officer
Southern Railway, Palghat.
6. V.K.Prasad.
Section Engineer(Telecom)
Southern Railway, Trissur
through Chief Personnel Officer
Southern Railway, Chennai
7. C.Dasarathan
Section Engineer(Telecom)
Southern Railway,Chennai
through Chief Personnel Officer
Southern Railway, Chennai
8. V.Damodaran
Section Engineer(Telecom)
Southern Railway, Chennai
through Chief Personnel Officer
Southern Railway, Chennai

9. K.Sayee Prasad.
 Section Engineer(Telecom)
 Southern Railway, Chennai
 through Chief Personnel Officer
 Southern Railway, Chennai

10. Shakeel Ahamed.
 Section Engineer(Telecom)
 Southern Railway, Chennai
 through Chief Personnel Officer
 Southern Railway, Chennai

11. C.Pradeep
 Section Engineer(Telecom)
 Southern Railway, Chennai
 through Chief Personnel Officer
 Southern Railway, Chennai

12. K.Murali Krishna
 Section Engineer(Telecom)
 Southern Railway, Trivandrum
 through Chief Personnel Officer
 Southern Railway, Chennai

13. T.Yogalakshmi
 Section Engineer(Telecom)
 Southern Railway, Chennai
 through Chief Personnel Officer
 Southern Railway, Chennai

14. K.R.Bhaskaran
 Section Engineer(Telecom)
 Southern Railway, Chennai
 through Chief Personnel Officer
 Southern Railway, Chennai

15. D.Jyothi
 Section Engineer(Telecom)
 Southern Railway, Chennai
 through Chief Personnel Officer
 Southern Railway, Chennai

16. L.Nagarajan
 Section Engineer(Telecom)
 Southern Railway, Chennai
 through Chief Personnel Officer
 Southern Railway, Chennai

17. A.Rajeev.
 Section Engineer(Telecom)
 Southern Railway, Trivandrum
 through Chief Personnel Officer
 Southern Railway, Chennai

... Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

The application having been heard on 11.01.2012, the Tribunal
 on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant is at present working as Section Engineer in the Signal and Telecommunication Department of the Railways. At the time of filing of the OA, he was Junior Engineer (Telecom) in the Railway Telephone Exchange. He is aggrieved by the provisional combined seniority list as on 01.02.2009 and also promotion of the respondents 6 to 16 to the post of Senior Engineer (Telecom) based on the above seniority.

2. Briefly stated the facts are as follows:-

The applicant was initially appointed as Electrical Signal Maintainer Grade II on 21.11.1997. While so, he was selected by a duly constituted Selection Board to the post of Apprentice Junior Engineer (Telecom) Grade II against the GDCE quota as per order dated 17.09.1998. Annexure A-1 is the copy of the order. The candidates were arranged based on the order of merit as seen from Annexure A-1. He is at Sl.No. 3 in the list of candidates selected for Apprentice Junior Engineer (Telecom) Grade II. Sl.No.4 is one P.Neelakandan. The applicant underwent the training and came out successful and joined the post of Junior Engineer (Telecom) Grade II on 19.04.2000. Subsequently, the training period was also considered for granting increments based on the orders of the Railway Board and the applicant was granted increments for the training period by order dated 23.08.2001. Annexure A- 2 is the copy of the order produced in this case. The post of Junior Engineer (Telecom) Grade II in the scale of Rs.5000-8000 was earlier controlled by Division and they were promoted to the post of Junior Engineer (Telecom) Grade I by order dated 12.08.2007 issued by the 5th respondent. Annexure A-3 is the



copy of the order. The applicant is at Sl.No.4 in Annexure A-3. Accordingly his pay was also re-fixed in the scale of the pay of Rs.5500-9000. It is contended that though Sri. P. Neelakandan was junior to the applicant in Annexure A 1, he was promoted earlier to the applicant considering his seniority in the Division in which he was appointed. Subsequently the 6th Pay Commission has recommended merger of the scales of pay of Rs.5000-8000 and Rs.5500-9000 and recommended the pre revised scale of pay of Rs.6500-10500. The above recommendations of the 6th Pay Commission was accepted by the Government with effect from 01.01.2006. Accordingly the promotion effected after 01.01.2006 were withdrawn by the official respondents consequent to the merger of the posts of Junior Engineer II and Junior Engineer I. Thus the promotion given to the applicant and similar others were withdrawn and the excess pay given to the applicant and others consequent to the pay fixation on promotion is said to have withdrawn from the applicant and others. Thus, it can be seen that the post of Junior Engineer grade II (Telecom) and Junior Engineer grade-I (Telecom) were merged together with effect from 01.01.2006 and there is only one post of Junior Engineer(Telecom) in Pay Band Rs.9300-34800 with grade pay Rs.4200/- as on 01.02.2009 which was published vide Annexure A-4. The applicant's name is at Sl.No.25 and the respondents 6 to 17 were shown above him at Sl.Nos. 9 to 22. If the promotion given to the applicant as also the party respondents to the post of Junior Engineer (Telecom) Grade I after 01.01.2006 is ignored, since the merger took place from 01.01.2006, their promotion to Junior Engineer (Telecom) Grade 1 cannot give the party respondents seniority over the applicant. Therefore, seniority will have to be reckoned on the basis of the position as it stood as on 01.01.2006. It is, therefore, contended that the



seniority assigned to the applicant in Annexure A-4 is wrong and the applicant ought to have been treated senior to the party respondents and he should have been promoted as Section Engineer from 01.01.2006. Going by the date of entry, he is senior to the party respondents.

3. In the reply statement filed by respondents 1 to 5, they do not dispute the fact that merger took place with effect from 01.01.2006. According to them, the combined seniority list was published based on the promotion of the employees to Grade I. But these promotions is to be ignored since the merger took place from 01.01.2006 and other employee will stand to lose any promotion effected after 01.01.2006. The reason for treating the party respondents as senior to the applicant is solely based on the fact that respondents were promoted to Grade I earlier to that of applicant in their Division. We do not find any justification for treating the party respondents as senior to the applicant based on the promotion to Grade I, especially when there is no post of Grade I after 01.01.2006, the merger have taken place with effect from that date. Therefore, the position as on 01.01.2006 when taken, the date of entry into Grade II alone would have reliance in deciding the seniority of the candidates. Admittedly, going by the date of entry, the applicant is senior to the party respondents. Despite notice being served on the party respondents, they have not repudiated the contentions raised in the OA by filing any reply and they have not contested the matter.

4. In the facts and circumstances, we are to hold that going by the date of entry into service as Junior Engineer (Telecom) Grade II, the applicant is undoubtedly senior to the party respondents. If so, the

A handwritten signature in black ink, appearing to read 'MK'.

promotion of the party respondents as Section Engineer prior to that of applicant is wrong and the applicant is deemed to have been promoted on the same date his juniors were promoted. We therefore, direct that the applicant be promoted from the same date his juniors were promoted notionally and for all purposes except difference in salary for the period during which he has not worked. In other words, the applicant is entitled to notional promotion from the date his junior has been promoted and he will be treated as senior to others for all other purposes and fixation benefits.

5. OA is allowed as above. No costs.

Dated, the 11th January, 2012.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

VS