

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No.229 of 1996

Patna, dated the 23rd March, 2004

C O R A M

The Hon'ble Mrs. Shyama Dogra, Member (J)
The Hon'ble Shri Mantreshwar Jha, Member (A)

1. Shri Kunwar Pandit, MES No.468126, son of Sri Gajadhar Pandit, serving under Garrison Engineer, Danapur Division, Danapur Cantonment, Patna.
2. Shri Baidh Nath Singh, MES No.465060, son of Sri Durga Dayal Singh, serving under Garrison Engineer, Danapur Division.
3. Shri Sita Ram Prasad, MES No.467641, son of Sri Somar Mahto, serving under Garrison Engineer, Danapur Cantonment.
4. Shri Jagdeo Yadav, MES No.454712, son of Sri Janki Yadav, serving under Garrison Engineer, Danapur Division.
5. Shri Bigan Rai, MES, No.503151, son of Shri S.N. Rai, serving under Garrison Engineer, Danapur Division.

.. Applicants

By Advocate Shri Gautam Bose

-versus-

1. The Union of India, through Secretary, Ministry of Defence, South Block, New Delhi.
2. Commander Works Engineer, Ranchi, Dipatoli Cantonment, District Ranchi.
3. Garrison Engineer, Danapur Division Danapur, Cantonment, District Patna.
4. The Chief Engineer, Central Command, Lucknow.

.. Respondents

By Advocate Shri H.P. Singh

O R D E R

Mantreshwar Jha, Member (A):- This O.A. has been preferred by Shri Kunwar Pandit and four others who are aggrieved.

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by order dated 22nd April, 1995 at Annexure-A-16 which is addressed to Shri Kunwar Pandit but as per the case of the applicants, identical orders have been passed by the respondents in respect of other applicants also.

Respondents have passed this order at Annexure-A-16 arising out of order of this Court in O.A.70 of 1993 and consequent CCPA No.29/94. By this order, SE, CWE, Ramgarh Cantt has disposed of the appeal/representation of applicants by passing a reasoned and speaking order.

2. The applicants had filed a similar case before this Court vide O.A.32/89 and O.A.412/88. The case of the applicants is more or less the same as referred to in the judgment of this Bench in the above-mentioned OAs dated 24.9.1990. This Court had then quashed the cancellation of promotion of applicants mainly on the ground that the impugned orders for cancellation of the promotion was in violation of principles of natural justice as the applicants had not been afforded any opportunity of being heard before the said order was passed.

3. The applicants were all appointed as Linemen and then after introduction of three grade structure, this cadre was clubbed with the cadre of Electricians. After the cadre of Linemen was merged with the cadre of Electricians, the applicants were promoted to Highly Skilled Grade II with effect from 25.10.1984 ahead of Electricians after they qualified in the trade test. Since this order of promotion was subsequently cancelled in 1988, the applicants have been coming to this Court for redressal of their grievances. The case of the applicants is that the orders contained in Annexure-A-16 has not been passed by competent authority



that is, Chief Engineer, Lucknow, nor it has been passed with reference to the representation made.

The applicants have also challenged the holding of fresh trade test in respect of the applicants after qualifying in the same earlier.

4. In the written statement filed by the respondents, it has been submitted that the case of the applicants is barred by principle of res judicata, as the applicants have filed their earlier OAs for the same reliefs. They have also stated that Commander Works Engineer is fully empowered and competent authority to dispose of the application in respect of industrial personnel working in M.E.S. Organisation under his area.

5. Rejoinder has been filed by the applicants to the written statement of respondents. It has been submitted by the applicants in the rejoinder that the principles of res judicata would not apply in this case as, according to them, they have filed O.A.32/89 O.A.412/88 and O.A.70/93 for different sets of cause of action and different sets of reliefs.

6. We have carefully gone through the record, averments and arguments made by both parties. It is evident from the record that the main question which has been agitated repeatedly by the applicants is cancellation of promotion given to applicants to H.S. Grade II in 1984, ~~subsequently in 1988 cancelled~~. ^{in 1988} had been quashed and set aside by this Court, as discussed above, in O.A.70/93 because principle of natural justice had been violated. The applicants were, therefore, asked to show cause against the

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proposed cancellation of their promotion and, thus, the Court's direction was technically complied with. From averments made by both sides, it is quite clear to us that the applicants had been given promotion in 1984, ignoring the claim of Electricians, who were in the higher grade before the applicants cadre of Lineman was merged with Electricians and, therefore, it was necessary to correct that error and give promotion to Electricians ahead of applicants who were originally appointed as Lineman. However, we are not satisfied with the grounds taken by the respondents for subjecting the applicants for second trade test after they had cleared the first one before earning their abortive promotion in 1984.

7. So far as the order under challenge, that is, Annexure-A-16 is concerned, we find that this is a well reasoned speaking order in the facts and circumstances of the case and, therefore, we are not inclined to interfere with the same.

8. In the background of the case discussed above, keeping in mind the fact that several cases have been adjudicated by this Court relating to the same subject-matter of dispute in the past and respondents have now passed a reasoned and speaking order while disposing of the representation/appeal filed by the applicants, we are satisfied that the case of the applicants is not fit to be allowed. We, however, direct the respondents not to deny future promotions to the applicants on the same ground of appearing in the trade test undergone by them earlier and consider them for their future promotion sympathetically as and when they are in the

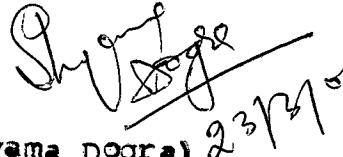


appropriate range of seniority.

9. That being so, the O.A. is dismissed with observations made above with no order as to costs.


(Mantreshwar Daga)

Member (A)


(Shyama Dogra)

Member (J)

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