

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

O.A. No 28 of 2006

Date of order : 19. 09. 2012

C O R A M

Hon'ble Mr. Naresh Gupta, Member [A]
Hon'ble Mrs. Bidisha Banerjee, Member [J]

1. Ram Jee Ram, S/o Late Daroga Ram, r/o village -Bhakhari, P.O - Bhakhari, P.S. Dhanarua, District - Patna.

.....Applicant.

By Advocate : None

Vs.

1. The Union of India through the General Manager, Eastern Railway, Kolkata.
2. The General Manager, East Central Railway, Hajipur.
3. The Chief Commercial Manager, E.C. Railway, Danapur.
4. The Sr. Divisional Personnel Officer, E.C. Railway, Danapur.

.....Respondents.

By Advocate : None.

O R D E R

Naresh Gupta, M [A] - This OA has been filed by one Ram Jee Ram seeking regularization of his services and all consequential benefits such as salary, promotion, increments, length of service etc. w.e.f. 13.08.1993. The case of the applicant is as follows:

2. The applicant was appointed as a Commission Vendor on 06.06.1982 in Eastern Railway. He was, vide letter dated 15.06.1983, asked to appear for Medical Examination, in which he appeared on 11.08.1993 and was found to be physically fit vide certificate of Physical Fitness dated 11.08.1993 [Annexure A/1 of OA], following which he moved from 'pillar to post' to get appointment as Permanent Vendor [from Commission Vendor] but in vain. He was appointed to a permanent post, viz., Group 'D' Khalasi, vide letter dated 26.03.2004 [Annexure A/2 of OA] after ten years of the medical examination. He was transferred as Khalasi in Group 'D' vide letter dated 01.04.2004 [Annexure A/3 of OA].

3. It is contended that the delay in appointment is due to negligence on the part of the respondent authorities. The applicant had also sent a legal notice dated 03.09.2005 [Annexure A/4 of OA] but there was no response.

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The respondents, in their written statement, have submitted that the

applicant was engaged in Catering Department as Commission Vendor, a temporary post in Group 'D' on 06.06.1982. He was screened on 26.03.2004 by the screening Committee and regularized in the existing post of Group 'D' vide Office Order dated 26.03.2004 in accordance with the direction of the Railway Board in their communication dated 27.05.2003, and accordingly he was entitled for the benefit of seniority etc. subsequent to the date of regularization. The applicant could not stake his claim from the date of medical fitness. The screening was concluded in the year 2004 and the applicant could be given the benefit only after that. The relief sought was barred by limitation of time.

5. In his rejoinder, the applicant has submitted that the other Commission Vendors were absorbed /regularized within 2 years of the medical examination / fitness. He has cited in this regard the example of one commission Vendor, Shiv Lall Ram who was regularized /absorbed vide order dated 14.01.1994, and he has annexed a copy of the Railway Estt. Order No. 291/1985 whereby a number of Commission Vendors were absorbed/regularized. In his supplementary rejoinder, the applicant has contended that the Office orders of Eastern Railway dated 05.02.1994 and No. 93 of 1994 indicated that while others were regularized, only he was left out.

6. When the case came up for hearing on 23.08.2012, there was no one present. Earlier, the OA had been dismissed for default and was restored by filing of MA bearing No. 275 of 2012 and 276 of 2012. The matter has been pending for a long time, and accordingly it is considered that the OA be decided in accordance with Rule 15 [1] of CAT [Procedure] Rules, 1987.

7. Although the applicant has approached the Tribunal after 12 years, this delay need not stand in the way of the respondent authorities considering the prayer of the applicant and taking a view thereon. The written statement filed by the respondents does not indicate any reason for non-consideration by the Screening Committee of the case of the applicant from 1994 to 2004, when others had been regularized / absorbed in Group 'D'.

8. In the facts and circumstances of the case, it is considered that the OA with its Annexures be treated as representation of the applicant for examination and passing orders thereon, preferably within a period of four months from the date of receipt/production of copy of this order. The applicant is directed to furnish copy of this OA with its Annexures to the concerned respondent within 15 days of the receipt

of copy of this order.

9. With the above directions, the OA stands disposed of. No order as to costs.

Naresh Gupta

Banerjee

[Bidisha Banerjee] M [J]

/cbs/

Naresh Gupta

[Naresh Gupta] M [A]