

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.28/96

Date of order: 6/12/2009

Yashwant Singh, S/o Sh.Sita Ram Singh, employed as
Electrical Chargeman (Traction Distribution),
Hindaun City, Western Railway.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly,
Churchgate, Mumbai.
2. The Divisional Rly.Manager, W.Rly, Kota Division,
Kota.
3. Sr.Divisional Electrical Engineer (Traction
Distribution) Western Rly, Kota Division, Kota.
4. Sh.A.K.Yadav, Electrical Foreman, R.E Project,
Ranchi, Eastern Railway.
5. Sh.Raghu Nandan Singh, Assistant Traction Foreman,
Kota Division, Hindaun City, Western Railway.

...Respondents.

Mr.Shiv Kumar

: Counsel for applicant

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.A.P.Nagrath, Administrative Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985,
the applicant makes a prayer (i) to direct the respondents
to consider the applicant for promotion on the post of Asstt
Traction Foreman, scale 1600-2660 w.e.f. 30.1.90 with all
consequential benefits; (ii) to direct the respondents to
modify the orders dated 31.1.90 (Annx.A1) and dated 14.3.90
(Annx.A2) and (iii) to quash the order dated 6.9.95
(Annx.A3).



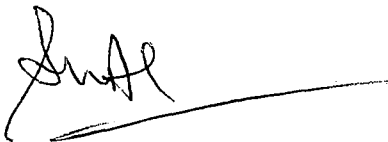
2. Facts of the case as stated by the applicant are that the applicant was selected for the post of Apprentice Electrical Chargeman and underwent for training from 3.9.95 to 3.8.87. During this period of training confidential report should not have been written but for the year ending 31.3.87, the following adverse entries were communicated to the applicant vide letter dated 4.1.88:

"Has his work been satisfactory if not in what respect he has failed:-

Still needs improvement as he has to be chased up for getting the work done."

The applicant filed representation vide letter dated 15.2.88 but thereafter the applicant did not receive any communication. It is stated that the applicant was performing his duties satisfactorily and his name appears at Sl.No.20 in the seniority list but in the promotion list dated 30.1.90 issued by respondent No.3 and another promotion list dated 14.3.90, name of the applicant was not included whereas 4 persons junior to him were promoted. It is stated that the applicant filed O.A No.552/90 before this Tribunal which was decided on 28.10.94. The applicant filed Contempt Petition but the same was decided on the ground that in the reply to the Contempt petition it has been stated that on examination the applicant was not found fit for promotion. It is stated that there was nothing adverse against the applicant on record, therefore, withholding of promotion of the applicant is illegal, arbitrary and not sustainable in law. Hence, the applicant filed this O.A for the relief as above.

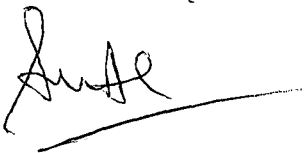
3. Reply was filed. It is stated that the O.A has been filed in 1995 to modify the order dated 30.1.90 and 14.3.90



therefore, this O.A is hopelessly barred by limitation. It is also stated that after one year training the applicant was put to work as Elc(TRD) in the scale 425.700 on a pay of 425/- with other allowances as admissible from time to time and was posted at VMA under CTFO(S) Kota vide order dated 7.11.86. In view of this, his ACR for the period ending 31.3.87 has been rightly written by the competent authority. It is stated that these adverse entries made in the ACR were duly communicated to the applicant vide letter dated 4.1.88 which the applicant acknowledged on 20.1.88 but the applicant did not file any representation for expunging those adverse remarks. It is specifically denied that representation dated 15.2.88 had ever been received by the answering respondents. It is also stated that in compliance of the order passed by this Tribunal in the aforesaid O.A, the ACR of the applicant were re-examined by the competent authority but the applicant was not found fit for promotion w.e.f. 30.1.90 and the applicant was informed vide letter dated 6.9.95. It is denied that with-holding the promotion of the applicant was in any manner illegal, arbitrary and in violation of Articles 14 & 16 of the Constitution of India. It is stated that the applicant has no case.

4. Heard the learned counsel for the applicant and also perused the whole record.

5. It is undisputed fact that the applicant was selected on the post of Apprentice Electrician after following the due process of selection and he was put to training w.e.f. 3.9.85. It is also clear from the averments of the parties that after one year the applicant was posted at VMA under CTFO(S) Kota vide order dated 7.11.86, hence, his performance was evaluated and adverse entries recorded



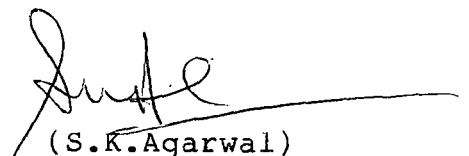
for the year ending 31.3.87 were communicated to the applicant. But no representation appears to have been filed by the applicant to the department as the respondents have categorically denied this fact in the reply to which there is no rejoinder. It also appears that the applicant filed O.A No.552/90 before this Tribunal which was decided with the direction to the respondents to re-examine the case of the applicant and if he is found entitled to promotion in terms of the directions contained in Annx.R2, in the light of the above discussion, they may grant promotion to him from the date from which he was due, with all consequential benefits. The respondents shall reconsider the case of the applicant within a period of three months. Thereafter, the applicant filed Contempt Petition for implementing the aforesaid order which was dismissed after the respondents rendering unconditional apology for delay occurred in reconsidering the case of the applicant for promotion. The order dated 6.9.95 makes it very clear that the case of the applicant was re-examined in pursuance of the order of the Tribunal but the applicant was not found fit for promotion on 30.1.90.

6. In view of the facts as mentioned above, we do not find any infirmity/illegality in the order dated 30.1.90 and 14.3.90. Therefore, the applicant is not entitled to any modification in the aforesaid orders. In the same way, we do not find any basis to quash the order dated 6.9.95. Thus, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

7. We, therefore, dismiss this O.A having no merits with no order as to costs.



(A.P. Nagrath)
Member (A).



(S.K. Agarwal)
Member (J).