

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 12/11/2006

OA 395/99

Bhagwan Das s/o Shri Ram Swaroop Agarwal r/o Bapu Colony,
Rangpur Road, Kota.

... Applicant

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Chief Mechanical Engineer, W/Rly, Churchgate, Mumbai.
3. Addl. Chief Mechanical Engineer, Wagon Repair Shop, W/Rly, Kota (now designated as Chief Works Manager).

... Respondents

CORAM:

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

HON'BLE MR.J.K.KAUSHIK, JUDL.MEMBER

For the Applicant

Mr.R.N.Mathur

For the Respondents

Mr.U.D.Sharma

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985, and has sought the following reliefs :

- "i) direct the respondents to upgrade the applicant as Chargeman 'B' w.e.f. 10.3.83 and also;
- ii) grant the benefits accorded to one Shri Chandra Prakash Dube who was junior to him.


iii) That the respondents be directed to pay the applicant, arrear accruing thereto after granting relief mentioned in the above clause.

iv) Petitioner be granted the pensionary benefit after granting relief in accordance with the benefit granted in accordance with Clause I and II mentioned herein above (in prayer). And arrear be paid thereafter together with interest at the rate of 18 percent per annum."

2. The main contention of the applicant, on which the relief is based, is that he is senior to one Shri Chandra Prakash Dubey, who was promoted as Chargeman 'B' in the year 1984 and thus he is also entitled for promotion from the year 1984.

3. We have perused the detailed submissions made in the OA and reply to the OA. Heard the learned counsel for the parties.

4. Shri R.N.Mathur, learned counsel for the applicant, gave us a brief resume of the background of this case and stated that some Supervisors working in the Production Control Organisation (PCO, for short) moved a writ petition before the Hon'ble Supreme Court of India with a prayer that they be not reverted to the Shop Floor. By order dated 7.3.95 Hon'ble the Supreme Court directed the respondents to permit the petitioners to continue to work



in the PCO and their reversion order was ordered to be treated as nonest and inoperative. In that order it was also observed that further promotion in the PCO can only be claimed by the petitioners in accordance with the rules which are applicable to the said Organisation-

5. Alongwith the petitions of three such Supervisors, the petition of the applicant, No.353/86, was also tagged and this stood settled by the same order. Consequent to this decision, the department treated the applicant as belonging to PCO and extending to him benefits accordingly.

However, according to the learned counsel, the applicant never belonged to the PCO as he had all alone worked on the Shop Floor. The seniority units for the PCO and the Shop Floor being different, the learned counsel contended that the applicant could not have been treated as belonging to PCO.

6. We have seen the reply filed by the respondents and to the extent that the applicant belongs to the Shop Floor cadre has been accepted by the respondents and this controversy now becomes extraneous to the matter before us.

In so far as placement of the applicant as Chargeman 'B' in the Shop Floor cadre is concerned, we were informed by the learned counsel for the respondents, Shri U.D.Sharma, that applicant was given his due promotion as Chargeman 'B' in 1989 after his name was placed in the selection panel dated 26.10.89. The learned counsel ~~for the applicant~~ submitted that since the applicant had cleared the



selection only in 1989, the question of giving him the benefit of promotion w.e.f. 1984 does not arise. The learned counsel also raised a plea of limitation for the reason that the cause of grievance had accrued in favour of the applicant only in the year 1989 and this application has been filed in the year 1999 i.e. rather belately and thus is not maintainable.

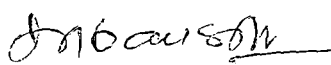
7. To counter Shri Sharma's argument regarding limitation, Shri Mathur drew our attention to Ann.A/3 dated 30.6.99 which, in his view, is actually the cause of action in favour of the applicant. He mentioned that the case of the applicant earlier remained under consideration for a long period as he was ordered to be reverted from the post of Mistry. To protect his promotion, he had to file a case before the Tribunal and this OA was allowed. Consequently, vide order dated 23.2.98 (Ann.A/1) he was reinstated on the post of Mistry and was accorded all consequential benefits.

However, in this order, his promotion to Charyeman 'B' was only made effective from 29.12.89. The applicant represented against this order and by order dated 30.6.99 (Ann.A/3) he was informed that the benefit given to him was in accordance with the directions of this Tribunal. The learned counsel contended that this is the final order of which the applicant is aggrieved and thus this OA is in time. On merits, he asserted that Shri Chandra Prakash Dubey was junior to the applicant and the said Shri Dubey has been given the benefit of promotion to the post of Charyeman 'B' w.e.f. September, 1984. The applicant is entitled to the same benefit from the same date.



8. On careful perusal of the records, we find that Shri Dubey was recruited as Apprentice Mechanic and after completing the prescribed period of training he was appointed as Chargeman 'B' vide order dated 17.9.84, whereas the applicant had cleared the selection test for the post of Chargeman 'B' and was placed in the panel dated 26.10.89. The applicant is a promotee to the post of Chargeman 'B', whereas Shri Dubey is a direct recruit. We have not been able to comprehend the basis on which the applicant claims seniority over Shri Dubey as they belong to two different streams. Shri Dubey came to hold the post of Chargeman 'B' on 17.9.84, whereas the applicant passed the selection only in the year 1989 and was promoted on 29.12.89. There is even remotely no case for the applicant to make a grievance about the induction of Shri Dubey as Chargeman 'B' in 1984. This case is totally devoid of merits. We do not propose to discuss the legal ground of limitation raised by the respondents.

9. We dispose of this OA having no merits. No costs.


(J.K.KAUSHIK)

MEMBER (J)


(A.P.NAGRATH)

MEMBER (A)