

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.137/2000

Date of order: 29.8.2002

Mangilal, S/o Peeru Lal, Pipe Fitter, C&W Depot, Ajmer,

R/o in front of Ram Bhawan, Om Nagar, Lohagal Road, Ajmer.

...Applicant.

Vs.

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Ajmer.
3. Sewa Ram, S/o Mangilal, Pipe Fitter Gr.2, C&W Depot, Railway Station, Ajmer.

...Respondents.

Mr.N.K.Gautam - Counsel for applicant.

Mr.S.S Hasan, Counsel for respondents.

CORAM:

Hon'ble Mr.H.O.Gupta, Administrative Member

Hon'ble Mr.M.L.Chauhan, Judicial Member.

PER HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER.

The applicant is aggrieved by the eligibility list dated 20.1.2000 (Annx.A2) issued for the purpose of promotion to the post of Pipe Fitter Gr.I from eligible employees of Pipe Fitter Gr.II in which the name of the applicant was not included and has thus filed this O.A for the following relief:

- (A) Direct the respondents to grant the promotional benefits of Pipe-Fitter Gr.II w.e.f. 21.1.99 to the applicant including pay fixation and (B) Direct the respondent to include the name of applicant as eligible candidate in the select or wait list for the post of Pipe-Fitter Gr.I after deleting the name of Sh.Sewa Ram.
2. The case as set out by the applicant is that initially he was appointed as Khallasi on 7.10.78 and thereafter he was

promoted as Pipe-Fitter Gr.III at Carriage & Wagon Depot, Ajmer. According to the applicant, his further promotion from the feeder post of Pipe-fitter Gr.III is to the post of Pipe-Fitter Gr.II. It is also averred that for promotion to the post of Pipe-Fitter Gr.I the feeder grade is Pipe-Fitter Gr.II. The case of the applicant is that while issuing the eligibility list dated 20.1.2000 (Annx.A2), the respondents have wrongly included the name of respondent No.3 who does not belong to the cadre of Pipe-Fitter whereas name of the applicant who was promoted as Pipe-Fitter Gr.II alongwith others vide order dated 21.1.99 (Annx.A1) was excluded. He further stated that in the seniority list dated 22.1.96 (Annx.A3) in respect of Pipe-Fitter Gr.I, Gr.II & Gr.III, name of respondent No.3 does not figure in any of the category of Pipe-Fitters whereas name of the applicant figured at Sl.No.5 in the said seniority list of Pipe-Fitter Gr.III and S/Sh.Bhoor Singh Moolchand figured at Sl.No.4 and Shanti Lal Babu Lal figured at Sl.No.6. The submission of the applicant is that though name of S/Sh.Bhoor Singh Moolchand and Shanthi Lal Babu Lal, figured at Sl.Nos.2 & 3 in the eligibility list for the post of Pipe-Fitter Gr.I whereas name of the applicant does not <sup>find</sup> place in the aforesaid list when he is admittedly senior to Sh.Shanthi Lal Babu Lal. The further case of the applicant is that S/Sh.Bhoor Singh Moolchand and Shanthi Lal Babu Lal were promoted as Pipe Fitter Gr.II alongwith the applicant vide order dated 21.1.99 (Annx.A1), therefore the name of the applicant should have been included in the eligibility list. It is, on these allegations, the applicant has filed this O.A for the aforesaid relief.

3. The respondents have filed statement/reply thereby stating that the applicant though promoted vide order dated 21.1.99 as Pipe-Fitter Gr.2 and posted at Udaipur but he did not join his

duty at Udaipur on the post of Pipe-Fitter Gr.II till the issuance of the eligibility list dated 20.1.2000. Thus, according to the respondents when the applicant did not join duty he cannot be said to be a member of the feeder Grade-II. Regarding inclusion of the name of Sh.Sewa Ram, Respondent No.3 in the eligibility list is concerned, it has been stated that Sh.Sewa Ram was working as Trimer Gr.II in the scale of Rs.4000-6000 since 24.5.89 and being surplus in the cadre of Trimer he was absorbed on the post of Fitter Gr.II in the pay scale of Rs.4000-6000 vide order dated 21.12.98. Thus, name of Sh.Sewa Ram <sup>was</sup> included in the category of Fitter Gr.II on 21.12.98, i.e. much prior to the issuance of promotion order of the applicant to the post of Pipe-Fitter Gr.II. It has further been submitted that name of respondent No.3, Sh.Sewa Ram, could not have find mentioned in the seniority list dated 22.1.96 as at that time he was not in the cadre of Fitter as such the question of showing his name in the seniority list dated 22.1.96 does not arise and subsequently seniority list dated 18.4.2000 was published (Annx.R1) wherein respondent No.3 has been figured at Sl.No.1 as he is the senior most of the cadre of Pipe-Fitter Gr.II. Thus, accordingly on the basis of the said seniority list dated 18.4.2000, name of respondent No.3 was correctly shown at Sl.No.3 in the impugned seniority list.

4. We have heard the learned counsel for the parties and also perused the whole record.

5. The grievance of the applicant is two fold. First is that respondent No.3 does not belong to the cadre of Pipe Fitter as such his name should not have been included in the eligibility list dated 20.1.2000 for which the applicant relied on Annx.A3, the gradation list. We see no force in this submission. Admittedly, for the purpose of promotion to the Post of Pipe-

Fitter Gr.I, the feeder category is Pipe-Fitter Gr.II. According to us, the applicant does not belong to the cadre of Pipe Fitter Gr.II as he had not joined on his promotion post of Pipe-Fitter Gr.II in pursuance of the order dated 21.1.99. In the reply, the respondents have specifically stated that though the applicant was given promotion on the post of Pipe-Fitter Gr.II and posted at Udaipur vide order dated 21.1.99 yet he did not join his duty on the post till the issue of the eligibility list Annx.A2 and seniority list dated 18.4.2000. This part of the averments has not been specifically controverted by the applicant in his rejoinder. It ~~was~~<sup>is</sup> not the case of the applicant that he was not permitted to join duty or he was not relieved from the post of Fitter Gr.III consequent upon his promotion order dated 20.1.99. Thus, it can be safely concluded that the applicant does not belong to the cadre of Pipe-Fitter Gr.II on the date when the eligibility list Annx.A2 was issued. Therefore, no relief can be granted to the effect that the applicant is entitled to promotional benefit of Pipe-Fitter Gr.II w.e.f. 20.1.99 including pay fixation as prayed for.

5. The other submission of the applicant is that name of respondent No.3 does not find mention in any of the category of Pipe-Fitter in the seniority list dated 22.1.96 (Annx.A3) as such his name could not have been included in the eligibility list Annx.A2. This submission also deserves out right rejection. It is true that respondent No.3 does not belong to the cadre of Pipe-Fitter as on 22.1.96 as such his name could not have been figured in the seniority list Annx.A3. Respondent No.3 was working as Trimer Gr.II w.e.f. 24.5.89 till his absorption as Pipe-Fitter Gr.II vide order dated 21.12.98 on account of being surplus. Subsequently when the seniority list was published on 18.4.2000 (Annx.R1), name of respondent No.3 was <sup>was</sup> ~~was~~ <sub>kg</sub>.

figured at Sl.No.1 in the cadre of Pipe-Fitter Gr.II. The applicant was given promotion as Pipe-Fitter Gr.II much after respondent No.3 was absorbed as Pipe-Fitter Gr.II. As such, respondent No.3 has rightly shown in the eligibility list Annx.A2.

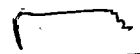
6. Further grievance of the applicant is that as per the gradation list Annx.A3, his name figured at Sl.No.5 in the category of Pipe-Fitter Gr.III whereas Sh.Bhoor Singh Mool Chand, figured at Sl.No.4 and Sh.Shanthi Lal Babu Lal Figured at S.No.6, though name of S/Sh.Bhoor Singh and Shanthi Lal find mentioned in the eligibility list Annx.A2 at Sl.No.2 & 3 respectively but the applicants name has not been included though he was senior to Sh.Shanthi Lal in the category of Pipe Fitter Gr.III and <sup>also</sup> when the applicant was promoted to Pipe Fitter Gr.II vide order Annx.A1, the applicant's name figured at Sl.No.2 and Sh.Shanthi Lal figured at Sl.No.3. Thus, according to the applicant his name should have been mentioned in the eligibility list, Annx.A2. This contention of the applicant deserves out right rejection inasmuch as pursuant to the promotion order Annx.A1, both S/Sh.Bhoor Singh and Shanthi Lal Joined their duty on 1.2.99 and 20.8.99, respectively whereas the applicant did not join the post of Pipe-Fitter Gr.II till the issue of the eligibility list Annx.A2 and subsequently when the seniority list in respect of the category of Pipe-Fitter Gr.II was notified on 18.4.2000, Annx.R1. Since, the applicant did not belong to the cadre of Pipe-Fitter Gr.II and his name did not figure in the seniority list of Pipe Fitter Gr.II Annx.R1, as such his name was not rightly included in the impugned eligibility list for the post of Pipe-Fitter Gr.I.

7. In view of what has been stated above, the O.A must fail

and is accordingly dismissed with no order to costs.

  
(M.L. Chaunan)

Member (J).

  
(H.O. Gupta)

Member (A).