

Central Administrative Tribunal
Jabalpur Bench

Dated Wednesday this the 1st day of March, 2006

OA No.104/06

CORAM

Hon'ble Mr. Justice G. Sivarajan, Vice Chairman

Om Prakash Sharma
Diesel Assistant
(Redesignated as Asstt. Loco Pilot)
R/o RB-1/135-B, Railway Colony
Satna (M.P.) Posted at Sagar
West Central Railway, Sagar.

Applicant

(By advocate Shri B.K. Pandit)

Versus

1. Union of India through
Secretary
Railways, Rail Bhawan
New Delhi.
2. General Manager
West Central Railway
Jabalpur.
3. Divisional Railway Manager
West Central Railway
Jabalpur.
4. Senior D.M.E.
C/o D.R.M. Office
West Central Railway
Jabalpur
5. A.D.M.E.
C/o D.R.M. Office
West Central Railway
Jabalpur
6. Senior D.P.O
West Central Railway
Jabalpur.

Respondents

(By advocate Shri M.N. Banerjee)

O R D E R (Oral)

By G.Sivarajan, Vice Chairman

Heard Shri B.K.Pandit, learned counsel for the applicant and Shri M.N.Banerjee, learned counsel for the respondents.

2. The grievance of the applicant as projected in the OA and before me is that the applicant's juniors were promoted from the post of Assistant Loco Pilot to the post of Driver in the Railway, ignoring the claim of the applicant who is senior. It is stated that on earlier occasions, the applicant was either removed from service or reverted from the post of Assistant Loco Pilot, but the said orders were set aside either by the Tribunal or by the Hon'ble High Court. The counsel for the applicant also submits that instead of considering the representations submitted by the applicant for promotion to the post of Driver, they are contemplating reversion of the applicant from the post of Assistant Loco Pilot. The counsel also points out that in fact the respondents had reverted the applicant but only as per the directions of the Hon'ble High Court, the reversion has been cancelled vide order dated 3.2.06 (Annexure A6). The learned counsel has pointed out this just to show that the respondents have acted malafidely against the applicant.

3. I have also heard Shri M..Banerjee, learned standing counsel for Railways. The learned standing counsel for the Railways, on the other hand, submitted that the earlier reversion order of the applicant was cancelled by the respondents on technical grounds vide order dated 3.2.06 (A-6), and not as contended by the applicant. The counsel also submitted that the present grievance of the applicant is against the promotion of his juniors ignoring his seniority and that Annexure A7 representation is only in respect of that matter. The learned standing counsel further submitted that if the said representation is still pending, certainly the respondents will consider the same and pass appropriate orders in accordance with law. The standing counsel also

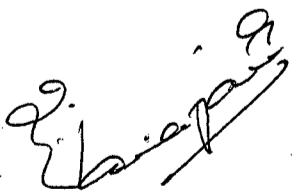
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pointed out that in these proceedings, the applicant is not entitled to seek the relief of not imposing penalty with respect to matters dealt with in Annexure A6, for, that is a totally different cause of action.

4. Having considered the rival submissions, I am of the view that the main relief sought for in this application is to promote the applicant to the post of Driver from the post of Assistant Loco Pilot by giving him due seniority. This is the very relief sought for in Annexure A7 representation and, therefore, a direction can be issued in that regard to the respondents. The second relief sought for in this OA is to direct the respondents not to malafidely punish the applicant, as has been their practice in the past. It is not possible for this Tribunal to issue any such direction in a pending matter, as is seen from Annexure A6. In the circumstances, the OA is disposed of at the admission stage itself with a direction to the respondents to dispose of Annexure A-7 representation as expeditiously as possible and at any rate within a period of three months from the date of receipt of this order. Regarding the second relief, it is a matter now pending with the authorities, as is seen from Annexure-6. Certainly all the issues can be taken up before the authorities themselves who will consider the same in accordance with law. If the applicant is aggrieved in any manner, he can separately take up the same before appropriate forum. I make it clear that I have not considered the merits of the case in this OA.

5. The OA is disposed of in the above terms.

6. Applicant is directed to give a copy of this order along with the copy of the OA and its annexures to the concerned respondents for compliance.


(G. Sivarajan)
Vice Chairman

प्रमाणित की ओर/व्या..... जयलपुर, दि.....

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(2) के अध्यक्ष, जयलपुर

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(7) के अध्यक्ष, जयलपुर

Shr B K Pandit

Shr M N Banerjee

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