

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT COURT SITTINGS: BILASPUR

Original Application No. 226 of 2005

Bilaspur, this the 6th day of March, 2006

Hon'ble Mr. Justice B. Panigrahi - Chairman
Hon'ble Mr. Shankar Prasad, Administrative Member

D. Nayak, S/o Kapila Nayak, aged about 51 years,
Technician Grade-II, T.No. 11318, Wagon Repair
Shop Colony, South East Central Railway, Raipur. **APPLICANT**

(By Advocate - Shri V. Tripathi)

Versus

1. Union of India through its General Manager,
South East Central Railway, Bilaspur.
2. The Divisional Railway Manager, South East
Central Railway, Raipur Division, Raipur.
3. The Chief Mechanical Engineer, South East
Central Railway, Bilaspur.
4. The Chief Workshop Manager, South East
Central Railway, Raipur Division, Raipur - **RESPONDENTS**

(By Advocate - Shri M. N. Banerji)

ORDER (Oral)

By Justice B. Panigrahi, Chairman.-

In this case, the applicant has claimed to set aside the order dated 10.1.2004; (Annexure-A-1). Vide Annexure-A-1 the actual benefit is to be given to the applicant from the date when his juniors got such promotion to the post of Technician Grade-II i.e. with effect from 3.3.2003, but not from the date of 10.1.2004.

2. Undisputedly, the applicant faced a departmental proceeding, in which an order of removal was passed. The applicant had questioned the propriety of the said order by filing an OA, being OA No. 271/1997, wherein the Tribunal has issued the following directions:

"In the result and having regard to the discussion made above and reasons recorded we allow this OA and set aside the orders passed by the disciplinary authority, appellate authority as well as revisional authority. The applicant be reinstated in service forthwith but shall not

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be entitled to any backwages. However, the respondents, if so advised, are at liberty to proceed with the inquiry strictly in accordance with the rules and in case decided the inquiry shall be completed subject to cooperation by the applicant within a period of six months from the date of receipt of a copy of this order. No costs".

3. After the Tribunal's order, it seems that the applicant was reinstated in service with effect from 23.3.2002. It appears that some of the juniors to the applicant were promoted with effect from 3.3.2003, therefore, he filed a representation to consider his case for promotion to the post of Technician Grade-II. Pursuant to the aforesaid representation, the respondents have considered the applicant's case, and gave him notional benefit with effect from 3.3.2003 i.e. from the date when his juniors were promoted, but actual benefit was extended from the date when he shouldered responsibilities of the higher post. The applicant's grievance is that had his case has been considered along with his juniors, he would have been given actual benefit from the date of 3.3.2003 but not subsequently from 10.1.2004.

4. The learned counsel appearing for the respondents has stressed his submission by quoting the circular no.P/R/14/257 dated 1.10.1964 and submitted that the applicant cannot be given any actual benefit of promotion from the date when his juniors got, but he should get the actual benefit from the date when he shouldered the duties and responsibilities of the higher post.

5. It appears from the record that the applicant has passed the trade test from 10.1.2004, therefore, he

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cannot claim the actual benefit from 3.3.2003. Even conferring the notional benefits from 3.3.2003 appears to be also erroneous. Therefore, for all purposes, his seniority in the grade of Technician Grade-II should be counted from 10.1.2004 and not from the previous date.

6. With the above observation, the application is dismissed. No costs.

Shankar Prasad
(Shankar Prasad)
Administrative Member

B. Panigrahi
(B. Panigrahi)
Chairman.

rkv.

पृष्ठांकन सं ओ/न्या..... जलपुर, दि.....

परिसरितेय के अतिरिक्त -

- (1) रजिस्ट्रार, जलपुर, जलपुर
- (2) अध्यक्ष के अतिरिक्त, जलपुर के काउंसल
- (3) सदस्य के अतिरिक्त/यु. के काउंसल
- (4) दंड्यापाल, जलपुर, जलपुर के काउंसल

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

V. Tripathi Adv. B.P.
M. K. Banerjee Adv. B.P.

Forwarded
14-3-06