

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT BILASPUR

Original Application No. 253 of 2005

Bilaspur, this the 7th day of March, 2006

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

D.V. Ramana, S/o. Shri Manikalu,
aged about 34 years, R/o. Gr. No.
996/3, NE Colony, SEC Railway,
Bilaspur (CG).

... Applicant

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India, through its General Manager, South East Central Railway, Bilaspur (CG).
2. The Divisional Railway Manager, South East Central Railway, Bilaspur Division, Bilaspur.
3. The Sr. Divisional Electrical Engineer (Operating), South East Central Railway, Bilaspur Division, Bilaspur. ... Respondents

(By Advocate - Shri S.P. Shrivastava)

O R D E R (Oral)

By Justice B. Panigrahi, Chairman -

In this case the applicant has prayed to quash that part of the select list dated 5.8.2004, Annexure A-1 by which he has been found unfit for the restructuring benefit and modification of order dated 20.8.2004, Annexure A-2, by ^{& other} which these persons have been promoted.

2. The applicant was initially appointed as Electric Assistant Driver on 9.9.1997 and was posted under Bilaspur Division. The Railway Board has issued orders dated 9.10.2003 and 6.1.2004, whereby certain posts of Group-C and Group-D were restructured. As per restructuring scheme the post of Senior Electrical Asstt. Driver is required to be filled up strictly on the basis of seniority of the

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Electrical Asstt. Drivers without any selection.

3. Pursuant to the notification issued on 12.4.2004 for upgradation of Electrical Asstt. Driver to Sr. Electrical Asstt. Driver, the applicant's case was considered for upgradation alongwith other similarly situated employees but he was found unsuitable only on the ground that the applicant was suffering the minor penalty of stoppage of next increment for one year. The grievance of the applicant is that the applicant has been visited with the penalty of stoppage of next increment falling due on 1.9.2004 without cumulative effect and that a similarly situated person Shri Rashidul Hasan, who was visited with the same punishment, the respondent authorities have considered his case and had provided him restructuring benefit as Sr. Electrical Assistant Driver, on the basis of the Estt. Sr. No. 13/93 and 139/01.

4. The learned counsel appearing for the respondents has highlighted that since the service record of the applicant was not satisfactory, and therefore, even though his case was considered but was denied the restructuring benefit. While controverting the aforesaid contention, the learned counsel for the applicant has taken us to the averments stated in the reply. In the reply it is stated that the applicant's case was not favourably considered on the ground of an order of minor penalty punishment of stoppage of one increment. The learned counsel has highlighted his submission by placing reliance on the paras 3.3 & 3.6 of circular No. E(D&A)92 RG6-149(A), dated 21.1.1993 which is quoted hereunder :

"3.3 On the basis of position assigned in the selection panel/suitability list, a list of qualified persons should be prepared keeping in view the following :-

(a) It should exclude the names of those mentioned in items (i) to (iii) of para 2 above.

(b) It should include the names of those who

are not under suspension and against whom disciplinary proceedings for the imposition of only a minor penalty have been initiated.

3.6 If the disciplinary proceedings against the person under suspension etc. for whom a vacancy has been reserved, is finalised within a period of 2 years of the approval of the provisional panel in the case of promotions to selection posts or at any point of time in the case of promotion to non-selection posts and if such a person is inflicted only a minor penalty, he should automatically be assigned the position in the selection panel suitability list and his empanelment/enlistment announced and he may be promoted in his turn. If his junior has already been promoted before interpolation of his name in the selection panel/suitability list, he should be promoted by reverting the junior-most person if necessary and his pay on promotion should be fixed under the normal rules."

He further contended that the respondent authorities did not consider the case of the applicant in the light of the above provision. But they have considered in case of Rashidul Hasan and provided him the same benefit.

5. In the circumstances, we therefore, direct the respondent authorities to reconsider the applicant's case in the light of the above quoted circular and provide him the benefit if it is given to similarly situated persons Rashidul Hasan within a period of four months from the date of communication of this order. We also quash and set aside that part of the order dated 5.8.2004, where the applicant is found unsuitable for getting the restructuring benefit.

6. With the above observations, the OA is disposed of. No costs.

Shankar Prasad
(Shankar Prasad)
Administrative Member

B. Panigrahi
(B. Panigrahi)
Chairman

संकेत सं. ओ/न्या..... जगलपुर, दि.....
"SA" परिव.

- (1) लालिया, दि.....
- (2) आलोदार, दि.....
- (3) प्रसाद, दि.....
- (4) योगेश्वर, दि.....

मूल्यांकन द्वारा आवश्यक है।

..... दिनांक

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