

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR

Original Application No 1023 of 2004

Indore, this the 17th day of November, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Amaresh Kumar Pani, S/o Late Shri
Murari Mohan Pani, Aged about
Years, R/o 16/295 Dipu Para, Bilaspur (CG) Applicant

(By Advocate – Shri Anoop Majumdar)

VERSUS

1. Union of India,
Through : The General Manager,
South Eastern Railway, Garden Reach, Kolkata.
 2. The Divisional Railway Manager,
South Eastern Central Railway, Bilaspur (CG)
 3. The Chief Personnel Officer,
South Eastern Railway,
Garden Reach, Kolkata. 43
 4. The Chief Commercial Manager (PS)
South Eastern Railway 14 Strand Road,
Kolkata-700001
 5. The Divisional Railway Manager
SECR, Nagpur (MH) Respondents

(By Advocate – Shri M.N.Banerjee)

ORDER

By Madan Mohan, Judicial Member –

At the very out set the learned counsel for the respondents argued that by way of this OA, the applicant is claiming multiple reliefs, which is not permissible under the rules. The learned counsel

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for the applicant submitted that he is only pressing relief No.8.1 i.e. for fixation of pay scale of the applicant.

2. The brief facts of the case are that the applicant was appointed as Commercial Clerk in South Eastern Railway at Nagpur and he was promoted up to the post of Chief Vigilance Inspector. According to the applicant, the selection test for the post of CBC/CPC Grade II was held in the year 1994 and he was not called for the selection. The promotion on the aforesaid post was due from the year 1994. The applicant submitted his representation dated 19.6.1994 to Divisional Commerical Manager. Vide order dated 11.4.1996 (Annexure-A-2) the Divisional Personnel Officer requested the Chief Vigilance Officer to spare the applicant to appear in the written test for the post of CPC/CBC Grade-II. Thereafter the applicant was promoted on the aforesaid post in the year 1997. According to the applicant he was absorbed on deputation as Chief Vigilance Inspector in the pay scale of Rs.6500-10500/- at Garden reach Kolkata. Vide order dated 8.5.2001 he was posted in the Head Quarter Anti Fraud Squad under CCM(PS)/CAL. But he was not allowed to join by the administration although he regularly appeared for the duty. The concerned authority has not treated him on duty for a period from 14.5.2001 to 7.6.2001. The applicant vide his representation dated 1/4/2002 requested the authority to treat the period from 14.5.2001 to 7.6.2001 as spent on duty. Vide order dated 24.1.2003 the request of the applicant was considered and the period from 14.5.2001 to 7.6.2001 was treated as spent on duty. However the applicant was not given the salary for the aforesaid period. Thereafter the applicant was transferred to Bilaspur and he joined at Bilaspur on 9.1.2003 but his service sheet has not yet been sent to Bilaspur by CPO, South Eastern Railway, Kolkata, due to which he is facing problems in availing his leaves. His promotion to the post of CBC Grade-I is also withheld at Nagpur for want of the service sheet. The applicant has made several representations before the respondents for fixation of his pay scale. Till now the respondents have not taken any action. Hence, this OA.



3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicant has stated that the applicant claimed for his promotion to the post of CBC Gr.II in the year 1994, 1995 and 1996, vide applications dated 11.12.94, 3.2.95, 11.6.95, 14.1.96 and 22.3.96. The learned counsel for the applicant also argued that some other similarly situated persons have been granted promotion on the post of CBC-Gr.II in the year 1994 whereas the applicant was granted the same promotion in the year 1997. The applicant is entitled for proforma seniority and fixation of pay from 1994 i.e. when some similarly situated persons were promoted. Hence, this OA deserves to be allowed.

5. It is argued on behalf of the respondents that the applicant is claiming fixation of pay at a very belated stage from 16.4.1994, on the post of CBC Gr.II. He has filed this OA after 10 years, therefore, this OA is barred by limitation. As the applicant has not participated in the written examination/selection held in the year 1994, he could not be considered and promoted for the aforesaid post. The applicant appeared in the selection for the post of CBC Gr.II in the year 1996 and was considered and promoted on the aforesaid post in the year in the year 1997. The applicant did not raise this issue in the year 1994 and after 10 years he has raised this issue. Hence, this OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the respondents have alleged that the applicant has not participated in the written examination/selection held in the year 1994 for the post of CBC Gr.II, hence he could not be promoted in the year 1994. This fact is not controverted by the applicant by filing any rejoinder. He appeared in the selection for the aforesaid post in the year 1996 and the respondents have considered and promoted him in the year 1997. Further we find that the applicant has claimed for promotion for the post of CBC Gr.II from the year 1994 onwards vide applications dated 11.12.94, 3.2.95, 11.6.95,

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14.1.96 and 22.3.96 as is evident from Annexure-A-3. However, the applicant has not filed these applications. The contentions of the applicant in his representation dated 27.8.1997 is that he was not spared in the year 1994 for appearing in the examination to the post of CBC Gr.II by the concerned authority and also he was not informed. In this regard the applicant could not file any such letter of the concerned authority who have not relieved him to appear in the said selection in the year 1994 and he has simply filed a copy of the representation. This seems to be not sufficient to believe his statement. As the applicant has not appeared in the year 1994 for the selection to the post of CBC Gr.II, the question of granting him proforma seniority and pay fixation does not arise.

7. After considering all the facts and circumstances, we are of the considered opinion that, this OA is bereft of merits. Accordingly, the same is dismissed.

(Madan Mohan)
Judicial Member

M.P.Singh
Vice Chairman

पृष्ठांकन सं. ओ/व्या..... जबलपुर, दि.....
प्रतिनिधि दायरे दिया—

- (1) राधिक, उत्तर प्रदेश विधायक सभा, जबलपुर
- (2) आधेकड़ नगर पालिका, दोहोरा, कांडपाल
- (3) प्रत्यार्थी श्री/महिला/दूतु..... कांडपाल
- (4) कंचियाल, दोहोरा, उत्तर प्रदेश

सूचना एवं आवश्यक कार्रवाई हो।

उपर्युक्त दस्तावेज़ द्वारा दिया गया है।

उपर्युक्त दस्तावेज़ द्वारा दिया गया है।

राज्य सभा
22-11-97

Amrapali Bhattacharya
M. D. Banerjee

22-11-97