

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

Original Application No. 570 of 2003

Jabalpur, this the 17th day of December, 2004

CORAM

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

S.C.Sana
S/o Late L.C.Sana
Vehicle Driver Grade II
Senior Section Engineer
Overhead Equipment
SEC Railway
Raipur(CG).

Applicant

(By advocate None)

Versus

1. Union of India through
Secretary
Ministry of Railways
New Delhi.
2. General Manager
South Eastern Central Railways
Zone Bilaspur
Bilaspur (CG)
3. Divisional Railway Manager
South Eastern Central Railway
Zone-B, Bilaspur
Bilaspur
4. Senior Division Personal Officer
South Eastern Central Railways
Bilaspur.
5. Section Engineer
Overhead Equipment
Maintenance Depot
SEC Railways
Raipur (CG)

6. K.Simhachalam
 Tower Wagon Driver, Grade I
 Office of Senior Section Engineer
 Overhead Equipment
 SEC Railways
 Shahdol (MP) Respondents.

(By advocate Mr.M.N.Banerjee)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following main reliefs:

- (i) Direct the respondents to give seniority to the applicant over and above Shri K.Simhachalam and the applicant be promoted to the post of Grade-I with consequential benefits.
- (ii) To quash the last paragraph of impugned communication dated 20.5.02 and also the letter dated 26.6.02 and direct the respondent o.4 to amend the order dated 16.9.02 while mentioning the date from which the proforma promotion as vehicle driver Gr.II has been given to the applicant.

2. The brief facts of the case are that the applicant who was initially appointed as Khalasi w.e.f 22.2.74 was promoted as Vehicle Driver Gr.III on 21.4.1981. A new Traction Running Department was created under Bilaspur Division and accordingly Chief Personnel Officer, Kolkata Division invited options from employees working in departments other than TRD for the post of Vehicle Driver Gr.III. The applicant duly applied for this and after being selected, he was posted as Vehicle Driver Gr.III at Overhead Equipment Depot at Pendra Road in TRD Wing w.e.f. 21.6.95. His seniority was continued to be maintained and kept under Electric Loco Shed, Bhilai. A person junior to applicant K.Simhachalam (respondent No.6) was called for trade test and was promoted as Driver Gr.II. The applicant made a representation to respondent No.5 (Annexure A5). Though the applicant came on transfer and joined in TRD at Overhead Equipment at Pendra Road, his lien is still being shown under TRS, Bhilai. The applicant made another representation on 27.1.2000 for



restoration of his seniority. Private respondent No.6 who has been declared junior to the applicant on 7.11.2000 was promoted as Vehicle Driver Gr.II in 1997 and Vehicle Driver Gr.I w.e.f. 4.4.2001. Therefore the applicant represented to respondent No.5 vide his letter dated 25.6.01 (Annexure A9) and then he filed an OA No.649/01. That OA was disposed of with a direction to respondent No.4 to decide the representation of the applicant within two months. The representation so submitted by the applicant was dismissed vide impugned order dated 20.5.02 against which the applicant submitted a representation on 4.6.02. The applicant was again informed vide impugned letter dated 26.6.02 that the office of respondent No.4 received only 17 options and the office record of respondent No.4 does not contain the option form so submitted by the applicant hence his request cannot be considered. The applicant once again sent a legal notice dated 1.4.2003 but to no avail. Hence this OA is filed.

3. None is present for applicant. Hence the provision of Rule 15 of CAT(Procedure) Rules, 1987 is invoked.

4. Heard learned counsel for the respondents, who argued that a new promotional unit of TRD Group 'C' & 'D' categories formed in BSP Division in TRD wing to maintain the electrified section of Bilaspur-KTE Section. Accordingly, options are invited from the serving employees of the TRD wing on the electrified section subject to the condition that the staff will continue to maintain their lien in the present cadre till such time they are absorbed in TRD wing in BSP Division. The applicant belongs to TRS wing. He joined the TRD wing on 21.6.95 but his seniority was maintained in TRS wing as he was not absorbed in TRD wing. Since private respondent No.6 belongs to TRD wing, he had been called for T.T. and promoted as V.D.Gr.II. The seniority of the applicant was maintained in TRS wing. His application for transferring his lien from TRS wing to TRD wing was referred to HQ vide letter dated 26.5.99. Accordingly CPO/GRC vide letter dated 25.7.00 transferred lien of the applicant from



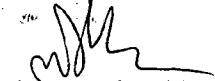
TRS wing to TRD wing w.e.f.22.6.95 i.e. the date he reported to TRD wing. The seniority position of the applicant also interpolated between Shri Chaman Kumar Sr.No.24 and Shri K.Simhachalam Sr.No.24A at Sr.No.24AI vide order dated 5/7-11-2000 thus the applicant becomes senior to Shri K.Simhachalam. Since the lien of the applicant was communicated in 2000, TT was conducted for VD Gr.II and accordingly private respondent No.6 was promoted as VD Gr.III in 1997 and on calling options for filling up the vacancy of Gr.I vide letter dated 11.5.99 promoted as Gr.I in 2001. No valid option was received from the applicant. Necessary steps are being taken to promote him from the date his junior was promoted, but further promotion as Gr.I will only be allowed on his turn as per seniority bifurcating between Raipur and BSP Divisions of SEC Railway. The respondents have not committed any irregularity or illegality in their action and further argued that the applicant has not contraverted these facts by filing any rejoinder.

5. Heard learned counsel for the respondents and perused the records. The applicant belongs to TRS Wing and he had joined the TRD on 21.6.95 but according to rules, his seniority was maintained in TRS wing as he was absorbed in TRD wing while private respondent No.6 K.Simhachalam belongs to TRD wing. Hence he was called for trade test and was promoted as V.D.Gr.II. 17 options were received for promotion to the post of TWD Gr.II in the scale of Rs.4000-6000 in the Electrical Department vide letter dated 11.5.99. No such option from the applicant was received. Optees were promoted to TWD Gr.I . As there was no option from the applicant, he was not called for trade test. The arguments advanced on behalf of the respondents that the applicant had not enclosed the option form as annexure even with the copy of the petition No.649/02. Accordingly a speaking order dated 20.5.02 (Annexure R1) was issued on facts and figures, promoting him at par with his juniors, from the date his junior was promoted as Gr.II and his representation dated 4.6.02 was disposed of vide letter dated 26.6.02 (R2). Annexure R2 seems to be correct. According to the contentions of the respondents, necessary steps

are being taken to promote the applicant but further promotion as Gr.I will be allowed only in his turn as per his seniority. The applicant could not show any valid receipt from the office of the respondents as proof of sending his option, which is clearly denied by the respondents.

6. Considering all the facts and circumstances of the case, we are of the considered opinion that the OA has no merit and is liable to be dismissed. Accordingly the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P.Singh)
Vice Chairman

aa.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अद्यो दिनः—
(1) सचिव, उच्च वकालत, वार एसोसिएशन, जबलपुर
(2) अधेदक्ष श्री/महिला/पु.के काउंसल
(3) प्रसारी श्री/श्रीमती/पु.दे काउंसल
(4) भारतीय, कोपाल, जबलपुर, उपरी देशी
सूचना एवं आवश्यक छापेयादि हेतु

M. S. Bhattacharya, *MD*
H. C. C. G. Bilarao, *MD*
M. N. Banerjee, *MD*
J. D.

अपरिजित
22/12/09

On
Issued
22/12/09