

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT AT BILASPUR

Original Application No. 173 of 1999

Bilaspur, this the 11th day of December, 2003

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Prem Prakash, aged 48 years,
son of Shri Ishu Prakash, working
as Diesel Driver, at Railways Station,
Korba, Distt Korba (MP).

... Applicant

(By Advocate - None)

V e r s u s

1. Union of India, through
Secretary, Railways Board,
New Delhi.
2. Chief Personnel Officer,
South Eastern Railways,
Calcutta - 700 043.
3. Divisional Railway Manager,
South Eastern Railway, Bilaspur
Division, Bilaspur (MP).

... Respondents

(By Advocate - Shri S.S. Gupta)

O R D E R (Oral)

By G. Shanthappa, Judicial Member -

As none is present on behalf of the applicant, we are disposing of this Original Application in the absence of counsel for the applicant, by invoking provisions of Rule 15 of CAT (Procedure) Rules, 1987.

2. The applicant has filed the above Original Application seeking direction to the respondents to fix his pay in the pay scale of Rs. 290-350/- per month as amended from time to time with effect from 28.11.1985 notionally and pay the arrears of salary arising out of same with effect from 08.04.1986 with 18% punitive interest till the date of payment of the same. The applicant has also prayed to grant seniority on the post w.e.f. 28.11.1985 as decided ~~by~~ in Annexure A-4, dated 5.4.94, issued by the office of the Sr. DPO, Bilaspur.

3. The case of the applicant is that he was working as First Fireman 'B' in the pay scale of Rs. 260-350/-.. A written test and viva-voce test was held and the applicant was the successful candidate. The respondents have issued the memo dated 29.11.1985 for empanelling the applicant for promotion to the grade of Fireman 'A' in the pay scale of Rs. 290-350/- against 50% departmental quota vide Annexure A-1. The name of the applicant was placed at serial No. 14. The applicant was promoted to the post of Fireman Grade 'A' by order dated 08.04.1986 in the pay scale of Rs. 290-350/-, at Annexure A-2. Subsequently a PNM meeting was held on 22.03.1994 and 23.03.1994, with SE Majdoor Union, wherein it was decided that the seniority of the applicant and other identically promoted personnel will be reckoned with effect from 28.11.1985 and pay will be fixed with effect from 28.11.1985, but the pay and allowances will be paid with effect from the date of assuming the charge i.e. 08.04.1986 and the pay will be fixed with effect from 01.01.1986. Subsequently a second meeting of the PNM was held on 05.04.1994, wherein the decision taken vide memo dated 25.07.1989 was amended. The said correspondence was put up to the Senior Divisional Personnel Officer, Bilaspur. The Senior Divisional Personnel Officer, Bilaspur had wrote a letter to the Chief Personnel Officer, i.e. the 2nd respondent. Now a new zone has been constituted i.e. South Eastern Central Railway and the Chief Personnel Officer is at Bilaspur. Vide the letter dated 19.07.1995 (Annexure A-6) the Senior Divisional Personnel Officer has also wrote to the Chief Personnel Officer (Ruling), S.E. Railway, Calcutta. The respondent No. 2 had taken a decision vide memo dated 25.07.1995 (Annexure A-7) in which they have clarified that the correspondence has been examined and it was found that it however does not reveal the logic as well as the compulsion regarding shift in the administrative view point in the P.N.M. meeting, in the case of

antedating seniority position of the sixty two 1st Fireman though their effective promotion took place at a later date. In the said letter they have also clarified the rule 302 of Chapter III of IREM (Vol. I). The applicant submitted his representation on 23.01.1996 which was replied by the Senior Divisional Officer, SE Bilaspur by order dated 08.01.1997 (Annexure A-9). In the order it was assured that by mistake, the applicant has been left out and the order dated 05.04.94 is being implemented. ^{By} ~~another~~ memo dated 05.03.1998 it was promised that the applicant's matter is being taken up with the CPO for guidelines. Since all these correspondence ^{are pending,} ~~the applicant~~ ^{has} sent a legal notice vide Annexure A-11. As no decision has been taken by the respondents the applicant has approached this Tribunal for grant of the reliefs as prayed in the OA.

4. Per contra the respondents have filed their detailed reply stating that it was clearly mentioned that the 62 Firemen ^{ep} who have been empanelled for the post of 1st F.M. in the scale of Rs. 290-350/- against 50% deptt. quota are revised and the benefits of pay and allowances will not be given in higher grade as the concerned staff did not shoulder any higher responsibilities with effect from 28.11.1985. The applicant will get the benefits with effect from 08.04.1986 as per Rule 302 of Chapter III of IREM Vol. I (Annexure R-1). The applicant retired on 03.09.2002 by voluntary retirement. Regarding fixation of the seniority is already mentioned in Annexure A-3. Hence the applicant is not entitled for any kind of relief. All the correspondence have been submitted to the Headquarters. The Headquarters has informed the division vide letter dated 25.07.1995 (Annexure A-7) about clarification of latest position to finalisation of the case. It is further mentioned that the subject matter is with the headquarters and it is required to be settled by them. The respondents have also mentioned that

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under Rule 302 of Chapter III of IREM Vol. I, the applicant is not entitled for any relief as claimed in the Q. Rule 302 of Chapter III of IREM Vol. I is extracted below :

"302. Seniority in initial recruitment grades--Unless specifically stated otherwise, the seniority among the incumbents of a post in a grade is governed by the date of appointment to the grade. The grant of pay higher than the initial pay should not, as a rule, confer on a railway servant seniority above those who are already appointed against regular posts. In categories of posts partially filled by direct recruitment and partially by promotion, the criterion for determination of seniority should be the date of regular promotion after due process in the case of promotee and the date of joining the working post after due process in the case of direct recruit, subject to maintenance of inter-se-seniority of promotees and direct recruits among themselves. When the date of entry into a grade or promoted railway servants and direct recruits are the same they should be put in alternate positions, the promotees being senior to the direct recruits, maintaining inter-se-seniority of each group.

Note : In case the training period of a direct recruit is curtailed in the exigencies of service, the date of joining the working post in case of such a direct recruit shall be the date he would have normally come to a working post have normally come to a working post after completion of the prescribed period of training.

(No. E(NG) I-78-SR-6-42 dt. 7.4.1982 ACS. 132)*

5. After hearing the advocate for the respondents and perusal of the pleadings and the documents on record, we have decided the case finally.

6. According to the submission of the respondents the subject matter is not yet finalised by the headquarters. Now the headquarters has been shifted to Bilaspur. Therefore direction is to be given to the respondents at Bilaspur to take a final decision on the subject matter which ^{is} ~~are~~ pending with them.

7. To meet the ends of justice it would be necessary to direct the respondent No. 2, now it is newly created as South Eastern Central Railway, Zone at Bilaspur, the CPO, Bilaspur to take a decision on the issue regarding pay fixation of the

