

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

ORIGINAL APPLICATION No.680/1999

Jabalpur, this the 2nd day of December, 2003

Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Sh. G. Shanthappa, Member(J)

M.H.B. Jury
s/o Late Mirza Hafiz Beg
Driver Mail
Central Railway
Jabalpur (MP)
r/o Railway Quarters
Opposite Civil Court
Jabalpur (MP). ... Applicant

(By Advocate: None)

Versus

(By Advocate: Sh. S.P.Sinha)

O R D E R (oral)

By Sh. G. Shanthappa, JM:

None appeared for the applicant even on second call. Since the case pertains to the year 1999, we have decided to dispose of the OA under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987. Accordingly, heard the learned counsel for the respondents.

2. The above OA is filed seeking relief for a direction to the respondents to give promotion to the applicant on the post of Loco Inspector/Senior Loco Inspector or Chief Crew Controller, from the date it was due and also for consequential

Conseqüencias

difference of accrued financial benefits.

3. The case of the applicant is that the applicant was empanelled as Driver 'C' and promoted as Loco Supervisor vide order dated 27.9.1984 in the grade of Rs.550-750/- vide Annexure A-1.

4. In view of the family circumstances, he was requested for postponement of promotion as ALF vide his letter dated 10.3.1986, the same was accepted for a period of one year vide respondents' order dated 2.7.1986 (Annexure A-2).

5. The applicant was deputed to Iraq from 1988 to March, 1990. Thereafter, without revocal order, he was not being posted. The applicant has submitted his representation dated 25.2.1991 in respect of filling up of the post of Senior Inspector Grade Rs.2375-3500/- vide Annexure A-3 and he had submitted one more representation on similar request on 20.7.1992.

6. On 24.12.1992, the applicant along with others were promoted, transferred and posted vice Shri A.T.Hingorani in the grade of Rs.2375-3500 vide Annexure A-5. On 31.12.1992, the applicant's promotion order Annexure A-5 was cancelled by order dated 31.12.1992. Though the applicant has submitted his representations against the order of cancellation and claimed posting as Loco Supervisor, that was not considered by the official respondents. One more representation dated 17.7.1997 was submitted by the applicant for the Grade of Rs.2375-3500/- on the basis of his having put in 38 years of service and having passed the



panel of ALF/PCOR/CCOR in September, 1984. On 29.1.1998 the Chief Personnel Officer Traffic issued circular to the Divisional Railway Managers and others to the effect that the cadre of power/Crew Controllers with distinct scale of pay will be abolished and Loco Running supervisors would consist of only Loco Inspectors. It was further stated that existing regularly selected Power/Crew Controllers under the Scheme dated 25.11.1992 effective from 1.1.1993 will continue to be in the existing pay scales and will progressively be posted in the existing pay scales and will progressively be posted as Loco Inspectors in accordance with the Scheme contained in the letter dated 25.11.1992. The copy of this Circular dated 29.1.1998 is at Annexure A-9. Subsequently, the applicant has submitted his representations to the respondents for his grievance. Since the respondents have not considered his request, he has filed the present OA seeking the aforesaid reliefs.

7. Per contra, the respondents have filed their detailed reply denying the allegations and averments made in the OA. The specific contentions of the respondents are that the applicant is challenging the non-promotion to the post of Loco supervisor by not implementing the order dated 27.9.1984 and also order dated 31.12.1992 by which his promotion order was cancelled. Thus the application is hopelessly barred by limitation.

7.1 It is further submitted by respondents that the applicant volunteered to go to Iraq, where Railway Construction company had taken contract for construction known as BAAR Project. The applicant
Contd.....4/-



volunteered to work their and was sent, on 16.6.88 where he retained till 22.3.1990. On return, he was again posted as Goods driver on the post in which he was working prior to leaving for Iraq, on his substantive post. It is admitted that the applicant made a representation that on the basis of his empanelment on 27.9.1984, he may be given promotion. But since the currency of panel was over on 27.9.1986, there was no question of promotion on that basis. He did not like to appear in new selections and continued to demand promotion on the basis of earlier empanelment, which was declined.

7.2 It is further stated in their reply that the applicant had any claim subsisting on 29.1.1998. The panel dated 27.9.1984 lapsed on the expiry of two years from the date of issue. The applicant himself had refused the promotion which under rule 224 of IREM deprived him promotion for one year. It may be submitted that a notification was issued on 7.9.1998 regarding scheme for filling up the post of Loco Running Supervisors, Loco Inspector, Power Controller and Crew Controller, but the applicant did not apply. The copy of circular is filed as Annexure R-II. Twenty one persons had applied against the said notification. Thus the applicant having not applied for selection cannot claim promotion on the basis of expired panel of 27.9.1984. This claim was highly belated.

7.3 Along with reply, the respondents have produced Office Order dated 31.7.1992 (Annexure R-1) in which promotion and transfer orders are issued to take immediate effect in respect of Loco Supervisory Staff.

Contd....5/-



8. Subsequently, on 7.9.1998, the respondents had issued a notification regarding filling up of the post of Loco Running Supervisors/Power Controllers Crew Controllers on Jabalpur Division. Since the applicant had refused for promotion, his case was considered vide Annexure A-5 in which the applicant is at Sl. No.8. On perusal of the said order Sl. No.8 and 11 to 12 are eligible to exercise an option for refixation of pay on promotion within the month from the date of promotion as laid down in Board's letter dated 13.11.1981.

9. The main contention of the ~~op~~ respondents is that the application is hopelessly barred by limitation and repeated representations does not give any cause of action and in fact the applicant has also not filed MA for condonation of delay in filing the OA. Hence the action taken by the respondents was in order, there is no illegality, the applicant has failed to prove his case. Hence the OA is liable to be dismissed.

10. In the rejoinder, the applicant has reiterated the pleas taken in the OA.

11. We have carefully considered the rival contentions of both the parties mentioned in their pleadings and also given careful consideration to the arguments of the learned counsel for the respondents. The main ground taken by the respondents is that the OA is hopelessly barred by limitation. Admittedly, the applicant has filed the OA on 5.11.1999. His grievance for promotion arose in the year 1992 on which year his alleged juniors were promoted.

As the applicant was in Iraq and he ~~had~~ refused

 Contd....6/-

for his promotion and thereafter after returning from Iraq, the respondents had promoted the employees. Since the applicant did not comply the orders for promotion, the respondents have taken decision and number of opportunities have been afforded to the applicant and the applicant was repeatedly ~~repeatedly~~ sent representations to the respondents vide Annexure A10 to A12. Since the applicant was aware of all the promotions given long back, the applicant was not made out any case for grant of promotion as prayed for. Para 5.2 of the reply clearly speaks about the action taken by the respondents. Hence, he cannot claim promotion on the expiry of panel on 27.9.1984. The respondents have produced the office order dated 31.7.1992, according to that cause of action has arose from that date. Since the applicant has failed to prove that he has filed the OA well within the period of limitation under Section 21 of the Administrative Tribunals Act, 1985, the OA is liable to be dismissed.

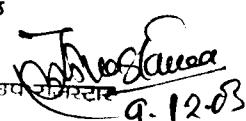
12. Accordingly, for the foregoing discussion, the OA is ~~referred~~ dismissed. No costs.


(G. SHANTHAPPA)
Judicial Member


(M.P. SINGH)
Vice Chairman

मुद्राकाल सं. ओ/न्या..... जावेद, दि.....
प्राप्ति दिनारे: ०८/१२/१९८४
(1) अद्वितीय दामाद राजेश राजेश, जवलपुर
(2) अद्वितीय अंती/द्वा..... के जाहसल
(3) अद्वितीय अंती/द्वा..... के जाहसल
(4) अद्वितीय अंती, जवलपुर ज्यायपीठ
सुनाया हुवे आवश्यक कार्यवाही हनु

Shri P. Chaturvedi Adv. JBP
Shri S.P. Sinha Adv. JBP


ज्यायपीठ
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