


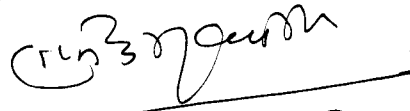
CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. NO. 83 / 1998

Hon'ble Mr. R.K. Upadhyaya, Administrative Member :-

For consideration please.


(J.K. KAUSHIK)
JUDICIAL MEMBER

I agree.

5.5.03

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 83 of 1998

Jabalpur, this the 6th day of May 2003.

Hon'ble Mr. R.K. Upadhyaya - Administrative Member
Hon'ble Mr. J.K. Kaushik - Judicial Member

Khullan S/o late Bhurelal, aged
about 49 years, by occupation Khalasi
New Katni Junction, Central Railway,
Katni District Jabalpur.

APPLICANT

(By Advocate - Shri Ansul Dixit)

VERSUS

1. Union of India through the
Secretary,
Ministry of Railways,
Railway Bhawan,
New Delhi.
2. Divisional Railway Manager ,
Jabalpur Division,
Jabalpur.

RESPONDENTS

(By Advocate- Shri S.P. Sinha)

ORDER

By J.K. Kaushik - Judicial Member:-

Shri Khullan has filed this Original Application for seeking direction to respondents to consider his promotion to the post of Fireman and then to Diesel Assistant, from the date his juniors have been promoted with consequential benefits and the difference of arrears of salaries be paid to him alongwith the interest.

2. The brief facts of this case which are necessary for adjudication of the controversy involved, are that the applicant was initially appointed to the post of Khalasi in year 1967 and at the time he has filed this case,



he had completed about 30 years of service. He has not got even a single promotion. He continues to work on the post on which he was initially appointed. He has excellent service record with nothing adverse. His number of Juniors like Shri Rampati Yadav, ~~Chandrapal~~ Chandrapal, Daulatram, Ishwarilal and Maniklal, have got first promotion Fireman and Diesel Assistant. But ^{been} the applicant has not given even a single promotion.

3. Further, applicant in the Original Application has enunciated that the employees are entitled atleast to two promotions in 30 years service. But, in his case not even a single promotion has been given. He has also given reference of a departmental enquiry and also a criminal case on the same charge. He has submitted that in criminal case he was acquitted and in departmental enquiry, his salary was reduced and he was put to work as Ladderman. Even that punishment was also awarded to him as far back as on 21.3.1986. The respondent had contested the case and have filed a reply. They have categorically mentioned that the applicant was promoted to YKC on 3.1.75 and his scale ^{was} upgraded to Rs. 200-260 on 12.12.83. They have also submitted that since no date of supercession by any of the junior is indicated the application is devoid of any substance. As per to the promotion the post of Diesel Assistant is concerned the minimum qualification ~~is~~ required is 8th standard passed, which the applicant does not possess and since he did not possess requisite qualification, he did not apply for the same. Thus there was no question ^{of} any supercession. Now the post of Fireman Grade-II and Grade-I have been abolished ~~due~~ to the closure of Steam Locomotives. As

far as the promotion ^{to} group C post is concerned the same has to be made after passing the Selection. There is no provision for promotion from Group D to Group C on the basis of seniority alone.

4. Rejoinder has been filed to the Original Application almost reiterating the facts mentioned ⁱⁿ the Original Application. The respondents have also filed a reply ^{to} the said rejoinder and have categorically submitted that the applicant was promoted from the Grade of ^{Rs.} 2610-3540 to the higher grade of ^{Rs.} 2650-4000. Thereby he has been already given two promotions. Thus the contention of the applicant is false.

5. We have heard the learned counsel for the parties and have carefully considered the pleadings and the records of this case.

6. The learned counsel for the applicant was confronted with certain/specific question as regards to how he claims to be senior to the persons whose names have been indicated in Para 4.3. Second question addressed to him was as to at what point of time the applicant was superseded. The learned counsel for the applicant was at great difficulty to give to direct answer to our query and tried to develop his arguments on precarious assertions. Not only this, the learned counsel for the applicant was not in a position to countenance ~~any~~ his argument by any admissible evidence. On the contrary, the learned counsel for the respondents has submitted that the Original Application is misconceived and does not disclose any cause of action. It could be very well construed as a frivolous litigation. He has also submitted that whatever has narrated in the Original Application or rejoinder is also patently wrong inasmuch as

the applicant has been given two promotions as indicated in the reply to their rejoinder. As regards the promotion of post of Fireman and Diesel Assistant, there is certain eligibility conditions laid down for these posts, ^{which} ~~which~~ the applicant did not possess.

7. We have considered the rival contentions raised on behalf of the parties. The bare ^{perusal} of the facts narrated in the Original Application indicates that the Original Application is totally misconceived. It does not disclose any date of supercession. It does not disclose as to how the applicant is senior to certain persons as claimed by him. It is not also clear as to when what was the reason for his supercession and as to when the same took place. In this way, it is ~~not~~ next ^{to} impossible to ascertain whether at all the Original Application could be said to be within a limitation. The pleadings do not disclose as to from which ~~the~~ date the applicant is claiming release.

8. We have also not been shown as to under which law it is essential to grant two promotions despite the fact that one does not possess the eligibility criteria or does not pass the requisite test/selection. In this view of the matter we are of the firm opinion that this is a case where no cause of action has arisen to the applicant.

9. Thus it could be safely concluded ^{that} this is a frivolous application and such litigation should be discouraged so as to save and utilise the valuable time of courts adjudicating cases where legal issues are involved. In the facts and the circumstances of this case and having regard ^{to the} relief's sought in the Original Application vis-a-vis the pleadings submitted on behalf

of the applicant, we have no hesitation in coming to the conclusion that the Original Application ^{is} misconceived and misconstrued besides being frivolous, without any legal ground and without there being any infringement of any constitutional or fundamental rights of the applicant. The same deserves to be rejected with costs so as to set an example that the process of the court is not misused in future.

10. In view of the aforesaid discussion, the Original application is dismissed with costs which is quantified at Rs. 1000/- and which may be recovered from the monthly pay bill of the applicant in instalment of Rs. 250/- each, by the respondents.

(Signature)
(R.K. Kaushik)
Member (Judicial)

(Signature)
(R.K. Upadhyaya)
Member (Admnv.)

पृष्ठंकन सं ओ/न्या.....जवनपुर, दि.....

परिचय अर्थात्

- (1) सचिव, उच्च न्यायालय एवं जवनपुर, जवनपुर
- (2) आवेदन श्री/श्रीमती/शु.....के काउंसल *Ansul Dixit, Adv.*
- (3) प्रत्यक्ष श्री/श्रीमती/शु.....के काउंसल *SP Sinha, Adv.*
- (4) न्यायालय, जवनपुर, जवनपुर जवनपुरीत

सूचना एवं आवश्यक कार्यवाही हेतु

(Signature)
उप-सचिव
9.5.03

SKM

Issued on 12.5.03