

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 05th day of April, 2010

ORIGINAL APPLICATION NO. 426/2007
With
MISC. APPLICATION NO. 276/2007

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Hanuman Prasad son of Shri Girdhari Lal, aged around 71 years, resident of Ward No. 10, Dhani Karigaran, Phulera, District Jaipur. Retired Shunter, Loco Shed, Western Railway, Phulera.

....APPLICANT

(By Advocate: Mr. Ankur Shrivastava proxy to Mr. R.N. Mathur)

VERSUS

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Northern Western Railway, Jaipur.

.....RESPONDENTS

(By Advocate: Mr. V.S. Gurjar)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following relief:-

- "(i) respondents be directed to give pension to the applicant for the period during which he remained dismissed from service.
- (ii) respondents be directed to give promotion to the applicant on the post of Goods Driver and thereafter on the post of Passenger Driver and Driver Grade A from the date from his juniors have been promoted on the said post with all consequential benefits.
- (iii) Any other order or direction, which this Hon'ble Tribunal deems proper in the facts and circumstances of the case, may also be passed in favour of the applicant."

2. Alongwith the OA, the applicant has also filed an MA for condonation of delay. As can be seen from the grounds raised in the MA for condonation of delay, the applicant has pleaded that he is aggrieved by the denial of his promotion on the post of Engine Driver Grade I and also denial to give him benefit of pension. In Para No. 2, it has been stated that vide order dated 15.05.2003 (Annexure A/2), the applicant was given proforma promotion but was denied pensionary benefits on proforma promotion. In Para No. 3, the applicant has stated that he has made repeated representations to the respondents but of no avail.

3. In the reply, the respondent have categorically stated that the applicant could not be promoted on the post of Goods Driver because the applicant has not qualified the selection test and thus the person junior to the applicant was placed in the select panel. Thus according to the respondents, the claim of the applicant to the post of Goods Driver with effect from the date his junior was promoted and also further promotion to higher post does not arise.

4. In view of the categorical submission made by the respondents, which has not been controverted by the applicant, the grievance of the applicant regarding grant of further promotion to the post of Goods Driver and Passenger Driver from the date his junior has been granted such promotion does not arise. It may further be stated that the applicant was not denied aforesaid promotions on account of pendency of criminal case but on account of the fact that he has not qualified the selection test. However, the promotion was denied to the applicant in the cadre of Shunting Driver on account of pendency of criminal case. When the applicant was subsequently acquitted by the competent court, he was granted proforma promotion as Shunting Driver with effect from 01.01.1984 vide order dated 15.05.2003 (Annexure A/2) after retirement of the applicant on superannuation on 30.09.1991.

5. As regards the second ground mentioned in the MA regarding denial of pensionary benefits on account of proforma promotion, suffice it to say that neither it is the case set up by the applicant in the

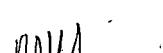
OA nor the applicant has sought relief in the aforesaid terms. Further the applicant has also not challenged the validity of the order dated 15.05.2003 (Annexure A/2) on the aforesaid ground. Thus we are not required to go into this question even if we condone the delay in filing the OA.

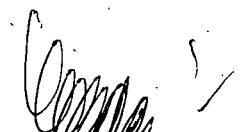
6. At this stage, learned counsel for the applicant submits that he may be permitted to withdraw this OA with liberty reserved to him to file substantive OA thereby claiming pensionary benefits on account of proforma promotion granted vide order dated 15.05.2003 (Annexure A/2).

7. In view of what has been stated above, the applicant is permitted to withdraw the OA in the aforesaid terms. It is made clear that it will be open for the respondents to raise all permissible objections in the OA to be filed by the applicant.

8. With these observations, the OA is disposed of with no order as to costs.

9. In view of the order passed in the OA, no order is required to be passed in the MA, which is disposed of accordingly.


(B.L.KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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