

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 03rd day of May, 2011

ORIGINAL APPLICATION NO. 197/2009

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

1. Mukesh Prasad son of Jagdish Garai by caste Garia, resident of C/O Shankutala Bhawan, Rangpur Road No. 3, Dadwara, Kota Junction, Kota. Presently posted as JE II (Works) at West Central Railway, Kota.
2. Mahaveer Singh son of Shri Rajpal Singh, resident of C/o O.P. Nama, Friends Colony, Gali No. 5, Machis Factory, Dadwara, Kota Junction, Kota. Presently posted as JE (Works) at West Central Railway, Kota.
3. Amrendra Kumar son of Shri Bhumi Sharma aged about 38 years, resident care of Vijay Kumar (Property Dealer), Vikas Colony, Gali No. 2, Machis Factory, Dadwara, Kota Junction, Kota. Presently posted as JE-II (Works) at West Central Railway, Kota.

.....Applicant

(By Advocate: Mr. Rajvir Sharma)

VERSUS

1. Union of India through its General Manager, West Central Railway, Indira Market, Jabalpur (M.P.).
2. Divisional Railway Manager, West Central Railway, Bhopal (M.P.).
3. Divisional Railway Manager, West Central Railway, Kota.

.....Respondents

(By Advocate: Mr. Anupam Agarwal)

ORDER (ORAL)

The present OA is directed against the order dated 07.05.2008 (Annexure A/1) as the applicants have prayed for quashing and set aside the impugned order dated 07.05.2008 (Annexure A/1) in all respect and the respondents may be directed to pass an appropriate order by showing them posted regularly with the regular status since



the date of just completion of their one year training/apprentice period and the respondents be further directed to give all the consequential benefits.

2. Brief facts of the case are that the applicants were selected for the post of Junior Engineer in the year 2005 and they were sent for one year training and have completed their training in the month of January, 2007 and were relieve to report their respective duties. Since the lien of the applicants was not maintained and was not ordered to be maintained, therefore, an order was issued by the Chief Engineer, West Central Railway, Jabalpur on 30.08.2007 that it was made clear that applicants were recruited at Bhopal Division but their lien have not been maintained and no order in this respect has been passed.

3. The order dated 09.10.2007 was issued by respondent no. 1 and respondent no. 2 was directed to furnish some details in regard to staff and post. The decision was taken by the respondents to maintain lien at Bhopal vide order dated 11.02.2008. In reference to this decision, an order was passed by the Divisional Railway Manager, Bhopal on 07.05.2008 whereby it was ordered that the applicants whose name mentioned in the order are posted in the regular pay scale of Rs.5000-8000/- . The grievance of the applicants is that the respondents cannot take the benefit of their slackness and negligence and it was their duty to pass orders immediately just after completion of one year's training period.

3. The respondents in their reply clarified that Division is not empowered to pass order unless lien of the employees is fixed. Thus

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when lien was fixed vide order dated 11.02.2008, the order of posting was issued on 07.05.2008. They further submitted that the posting of an employee is based upon many factors such as availability of vacancy, sanctioned post, sanction for posting etc., applicant cannot claim to be deemed to be posted without such exercise or consideration of the many factors. The Headquarter Office had called for the details of the applicants for fixation of their lien vide 09.10.2007 (Annexure A/5). The competent authority after due consideration of all the factors accorded its sanction and communicated through order dated 11.02.2008 informing that the lien of the applicant has been fixed in Bhopal Division. Thereafter the matter was processed for posting of the applicants for which again relevant information was required to be called for. The competent authority after calling for the vacancy position and requirement issued the posting orders vide Annexure A/1. Thus according to the respondents no one can be posted retrospectively nor regular posting can be given with retrospective effect. As per Para 1912 of IREM Vol. II, in case of delay the apprentices should be paid stipend during the intervening period. The relevant extract of the same is reproduced as under:-

"In case where there is delay in holding examinations, valuation of answer books, issue of office order etc. owing to administrative reasons, the period intervening the date of completion of the apprenticeship and the apprentices should be paid stipend for that. In no case an apprentice should be absorbed against a working post with retrospective effect."

4. Upon perusal of the aforesaid provision and having consider the overall facts and circumstances, the order dated 11.02.2008 was passed and regular posting order has been given vide order dated



07.05.2008 (Annexure A/1), we find that it is hardly more than a year and not more than two and a half year, as alleged by the applicants, the time consumed in processing the matter at various levels, this cannot be said to be respondents' negligence and slackness. We are satisfied with the reasons given by the respondents for the delay in processing the matter. Accordingly we find no illegality in the impugned order dated 07.05.2008 (Annexure A/1). Consequently, the OA deserves to be dismissed being bereft of merit.

5. With these observations, the OA is dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)

MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

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