

(20)

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 18.07.2012

OA No. 533/2009

Mr. C.B. Sharma, counsel for applicant.
Mr. Anupam Agarwal, proxy counsel for
Mr. M.K. Meena, counsel for respondents.

At the request of learned proxy counsel for Mr.
M.K. Meena, counsel for respondents, put up the matter
on 08.08.2012 for hearing.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

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

Kumawat

08/08/2012

OA No. 533/2009

Mr. C.B. Sharma, Counsel for applicant.
Mr. M.K. Meena, Counsel for respondents.

Heard.

O.A. is disposed of by a
separate order on the separate-
sheets for the reasons recorded
therein.

Anil Kumar
[Anil Kumar]
Member (A)

J. S. Rathore
[Justice K.S. Rathore]
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 8th day of August, 2012

Original Application No.533/2009

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Mahendra Singh Parmar
s/o Shri Mangi Lal,
r/o 449/10, Gandhi Nagar,
Ramanj, Ajmer and presently working
as Skilled Kamani Luhar Grade-II
under Deputy Chief Mechanical Engineer,
Carriage and Wagon Workshop,
North Western Railway,
Ajmer.

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India
through General Manager,
North Western Zone,
North Western Railway,
Jaipur
2. Chief Works Manager (Loco),
North Western Railway,
Ajmer Division,
Ajmer.
3. Deputy Chief Mechanical Engineer
(Carriage and Wagon),
North Western Railway,
Ajmer Division,
Ajmer.

.. Respondents

(By Advocate: Shri M.K.Meena)

ORDER (ORAL)

By way of this OA, the applicant has prayed for the following reliefs:-

- i) The entire record relating to the case be called for and after perusing the same, respondents may be directed to extend benefits to the applicant to the grade of helper khallasi, skilled grade-III, Grade-II and further grade-I as allowed to his juniors from time to time with all consequential benefits by treating the applicant on same footing as juniors treated time to time.
- ii) The respondents be further directed to modify the orders at Annexure-A/2, A/5 issued in favour of the applicant by allowing respective grade from the date junior Shri Raj Kumar Meena allowed with all consequential benefits.
- iii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- iv) That the costs of this application may be awarded.

2. Facts of the case are that initially the applicant was appointed as Khalasi on 9.7.1982. Unfortunately, the applicant was involved in a criminal case and due to pendency of the criminal case, he was not called for trade test to the cadre of Helper Khalasi in the year 1984 and 1985. The applicant was called for the trade test in the year 1986 and declared pass in the trade test. During the period 1984 to 1986, so many junior persons, whose names are referred to in the OA, were allowed to go through the trade test to



the cadre of Helper Khalasi and further allowed promotion. The applicant is aggrieved and dis-satisfied with action of the respondents for not considering case of the applicant, as the applicant has been acquitted by the Court from the criminal charges.

3. It is not disputed that a criminal case was instituted against the applicant and he was suspended from 12.10.1984 to 16.1.1985 and due to this reason the applicant was not called for trade test. It is also not disputed that the applicant was allowed ad-hoc promotion in the year 1990 but he was not allowed promotion to the post of Helper Khalasi for which he passed trade test in the year 1986. The applicant was also not allowed promotion to Motor Lorry Driver, as claimed by the applicant. Admittedly, the applicant was acquitted in the year 1997 from the criminal charges pending against him by the competent court. Pursuant to this acquittal, case of the applicant for the purpose of promotion was reviewed. However, the applicant was granted promotion in the scale of Central Motor Lorry Driver Grade-III but as he was declared fail in the trade test for Motor Lorry Driver grade-II, as such, he was not granted promotion from the date when his juniors were promoted.


4. Having considered the rival submissions of the respective parties and upon careful perusal of the material available on record, it is not disputed that due to pendency of criminal case against the applicant he was not considered for promotion

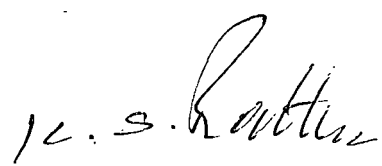


alongwith similarly situated persons and, more so, at par with junior to the applicant like Shri Raj Kumar Meena and others.

5. Be that as it may, without entering into other controversies raised by the applicant, as per the settled proposition of law, the applicant is having every right of consideration for promotion to the post of Helper Khalasi from the date upon which similarly situated/junior persons have been granted promotion with consequential benefits, if otherwise he is found eligible in accordance with provisions of law. Therefore, ends of justice will be met, if we direct the respondents to consider case of the applicant from the date from which junior to the applicant has been given promotion on the post of Helper Khalasi, if found eligible, in accordance with the provisions of law. Ordered accordingly.

6. In view of the aforesaid observations, the OA stands disposed of with no order as to costs.


(ANIL KUMAR)
Admv. Member


(JUSTICE K.S.RATHORE)
Judl. Member

R/