

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

23
07/02/2013

O.A. 19/2010 a/w MA 17/2010

Present : Mr. S.C. Sethi counsel for the applicant.

Mr. Iliyas Khan proxy for

Mr. Tanveer Ahmed counsel for the respondents No. 1 to 3.

Mr. C.B. Sharma counsel for the respondents No. 4.

This case has been listed before the Joint Registrar due to non-availability of Division Bench. Let the matter be placed before the Hon'ble Bench on 28/02/2013.

(Gurmit Singh)

TRIBUNAL OF LOKAYUKTA, JALSA 2, Joint Registrar

28/02/2013 LISTED AGAINST PLEA NO.

2010 S 2010 DATED 28/02/2013

28/02/2013 DATED 28/02/2013

O.A No. 19/2010 with MA No. 17/2010

Mr. S.C. Sethi, Counsel for applicant.

Mr. Ajay Singh, Proxy Counsel for

Mr. Tanveer Ahmed, Counsel for respondent Nos. 1 to 3.

Mr. C.B. Sharma, Counsel for respondent No. 4.

Heard.

O.A. and M.A. are disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar

[Anil Kumar]

Member (A)

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

THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

Thursday, this the 28th day of February, 2013

O.A. No. 19/2010 with MA No.17/2010

CORAM:

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

Israr Navi s/o Shri Nisar Navi,
aged 59 years, Jr. Engineer Grade-I,
posted under Senior Section Engineer (C&W),
Kota Division, West Central Railway,
Kota r/o Near New India Public School,
J.P.Colony, Rangpur Road,
Kota.

.. Applicant

(By Advocate : Mr. S.C.Sethi)

Versus

1. Union of India
through General Manager,
West Central Railway,
Jabalpur (MP)
2. Divisional Mechanical Engineer (C&W),
West Central Railway, Kota.
3. Sr. Divisional Personal Officer,
West Central Railway,
Kota Division, Kota.
4. Pradeep Kumar Jain,
s/o Sh. Maluk Chand Jain,
Jr. Engineer Grade-I,
C/o Senior Section Engineer (C&W),
West Central Railway,
Kota.

.. Respondents

(By Advocate: Mr. Ajay Singh, proxy counsel for Mr. Tanveer Ahmed for resp. No. 1 to 3 and Shri C.B.Sharma for resp. No.4)

ORDER (ORAL)

The present OA is directed against the order dated 16.12.2009 (Ann.A/1 by which six persons were found eligible for placing in the select list for the post of S.E. (C&W)), order dated 23.12.2005 (Ann.A/2) vide which respondent No.4 has been shown senior to the applicant and order dated 16.1.2006 whereby respondent No.4 has been given promotion from the post of Junior Engineer Grade-II to Junior Engineer Grade-I.

2. The learned counsel appearing for the respondents has raised preliminary objection regarding maintainability of this OA on the ground that the present OA has been filed after inordinate delay. He submits that this OA has been filed in the year 2010 challenging the order dated 16.12.2009, 23.12.2005 and order dated 16.1.2006. It is also pointed out that the provisional seniority list issued vide order dated 22.4.2005 (Ann.A/13) was circulated among all the concerned employees and one month's time was given to raise objections to the said provisional seniority. It is not disputed that the applicant has neither filed objection nor challenged the seniority list dated 22.4.2005 prior to filing this OA in the year 2010. Further, it is not

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disputed that respondent No.4 is shown senior to applicant in this seniority list as name of respondent No.4 figures at Sl.No.3 whereas name of the applicant has been shown at Sl.No.6.

3. We have also considered the matter on merit in the interest of justice besides the fact that the OA has been filed after an inordinate delay. Admittedly, earlier the seniority list as well as promotion of respondent No.4 has never been challenged by the applicant and the applicant has not been able to substantiate this fact. The learned counsel appearing for the applicant submits that the applicant did not challenge the seniority list and the order of promotion as he was also granted promotion and obviously he stands satisfied.

4. Respondent No.4 was selected under 25% quota of intermediate apprentices Limited Departmental Competitive Examination vide letter dated 9.7.2002 whereas the applicant was selected/promoted as Junior Engineer-II under the modified restructuring process on 1.11.2003 and, therefore, according to Para 306 of the IREM, name of respondent No.4 was placed.

5. Further, we have considered order dated 7.6.2002 (Ann.R/1) as referred and filed by the respondents whereby

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respondent No.4 was found eligible for written test for the post of Trains Examiner. This order has also not been challenged by the applicant and further vide order dated 9.7.2002, the respondent No.4 also cleared the interview for the post of Trains Examiner in the scale Rs. 5000--8000 (Intermediate Apprentice Quota) and he was placed in the final panel. Now at this belated stage, by way of present OA the applicant has challenged the seniority list which has attained finality after inviting objections from the concerned persons. It is also not disputed that during the pendency of this OA, the applicant retired on attaining the age of superannuation.

7. Though the applicant has filed Misc. Application for condonation of delay in filing the present OA but we are not satisfied with the reasons stated in this applicant and the Misc. Application No.17/2010 stands dismissed in view of the ratio decided by the Hon'ble Apex Court in the case of D.C.S.Negi vs. Union of India and ors., in SLP (Civil) No.7956/2011 dated 7.3.2011.

8. We have also considered the judgments referred to by the respective parties and are of the view that these are not applicable to the facts and circumstances to the present case.

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9. Consequently, we are of the view that the present OA is not only deserves to be dismissed on merit but also on the ground of delay and latches and the same is accordingly dismissed with no order as to costs.


(ANIL KUMAR)

Admv. Member


(JUSTICE K.S.RATHORE)

Judl. Member

R/