

Reserved
CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.203/00278/2016

Jabalpur, this Tuesday, the 3rd day of July, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

R.K.Ravi Das, Son of Late Keshew Ram Ravi Das,
Aged about 48 years, Resident of Hemu Nagar,
Near Shobha Vihar, Shiva Mandir Railway Line,
Bilaspur (CG), Pin-495004

-Applicant

(By Advocate –**Ku. Veena Nair**)

V e r s u s

1. Union of India-Through General Manager, SEC Railways,
Bilaspur, Bilaspur Dist., CG State, Pin 495004

2. The Senior Divisional Electrical Engineer,
South East Central Railway, Headquarter Office,
Bilaspur, Bilaspur Dist. Pin 495004, CG State

3. The Senior Divisional Personnel Officer,
SEC Rly., Bilaspur, Bilaspur District (CG State),
Pin 495001

4. Uday Singh Benjare, Loco Pilot (M),
C/o Sr. D.EE (OP), SEC Rlys, Bilaspur,
Bilaspur Dist., CG State

5. Shri A.K.Das, Loco Pilot (M)
C/o Sr. D.E.E. (OP) SEC Rlys, Bilaspur,
Bilaspur, Dist. CG State

-Respondents

(By Advocate –**Shri Vivek Verma**)

(Date of reserving the order:- 19.04.2018)

OR D E R**By Navin Tandon, AM:-**

The applicant is aggrieved against the order dated 01.10.2015 (Annexure A-1) issued by respondent No.3 refusing to amend the seniority list of Loco Pilot Passenger (M/L), as published on 01.08.2015. Hence he has filed this Original Application.

2. The following relief has been sought for by the applicant in this Original Application:-

“8. Relief Sought :

(8.1) That, the Hon'ble Tribunal be pleased to call for the records of the case from the respondents for its kind perusal.

(8.2) This Hon'ble Tribunal be pleased to accept this application of the humble applicant and to quash letter/order at A/1 annexed.

(8.3) This Hon'ble Tribunal be pleased to direct the respondents to grant seniority to the applicant above A.K.Das and Banjare who are juniors to him in the grade of LPP and now LP(M).

(8.4) This Hon'ble Tribunal be pleased to direct pay the cost of this application to the applicant.

(8.5) This Hon'ble Tribunal be pleased to grant any other relief that it may deem fit and proper in the interest of justice.”

3. The applicant has submitted that he has been placed below his juniors in the seniority list published on 01.08.2015.

3.1 The applicant further states that though he was senior to respondents Nos. 4 & 5, he was shown in the seniority list as junior to them. The applicant submitted his representation dated 01.09.2010 against the wrong seniority list published on 02.08.2010 requesting the respondents to grant seniority above respondents Nos. 4 & 5. The respondents amended the seniority list partially by granting seniority to the applicant above Shri Katoriya but below Shri A.K.Das.

3.2 The applicant again submitted that he was not promoted to the post of LPP on the ground that he did not completed the PDC course while his juniors have completed the same.

3.3 The applicant further avers that he was sent for PDC course but he did not complete the same as his wife was suddenly found to be suffering from cancer and was to be rushed to hospital for medical treatment. The applicant had completed only seven days training at that time. The applicant had submitted representation on 02.09.2015 to the respondents claiming to be senior to his juniors who were promoted earlier.

3.4 It is the case of the applicant that despite submitting representations the respondents have not considered the case of the applicant for promotion/ granting seniority to the applicant above respondents Nos. 4 & 5.

4. The respondents in their reply have averred that the applicant himself vide letter dated 07.12.2010 (Annexure R/1) intimated the respondent authorities regarding “Unwillingness for promotion as Loco Pilot (Pass)” and mentioned that I am not willing to be considered for promotion as Loco Pilot and shall have no claim related to the loss of seniority.

4.1 Respondents further submit that the instant Original Application is not maintainable on the ground that seniority list published by the authority in the year 2009 and the applicant submitted unwillingness on 07.12.2010 and filed a representation for rectification of seniority on 02.09.2015 i.e. after a lapse of six years.

4.2 The respondents further stated that the settled legal preposition emerges that once the seniority had been fixed and it remains in existence for a reasonable period, any challenge to the same should not be entertained.

5. We heard both the parties and pleadings available on record.

6. We find merit in the point raised by the respondents that the applicant has submitted a representation against seniority after a lapse of six years. Therefore this Original Application is barred by limitation.

7. Considering the case on merits, it is undisputed that while attaining the PDC training at ELTC/USL from 3rd December, 2010, the applicant made a request to be released from training. He also gave written declaration that

“I am not willing to be considered for promotion as Loco Pilot (Pass) and shall have no claims related to loss of seniority due to above.”

7.1 The completion of PDC training is a pre-requisite for promotion to Loco Pilot Passenger. Therefore, the action of the respondents in not promoting the applicant alongwith his juniors can not be faulted.

7.2 The applicant has successfully completed the PDC training subsequently and therefore he has been promoted as Loco Pilot (Passenger), when he had completed the requisites.

7.3 His seniority as Loco Pilot (Passenger) would be reckoned from the date of his promotion, which has been correctly published by the respondent department.

8. Accordingly, the Original Application is dismissed on merit as well as on the ground of delays and latches. No costs.

(Ramesh Singh Thakur)
Judicial Member
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(Navin Tandon)
Administrative Member