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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A.No.350/01263/2016

In the Matter of :

An application u/s 19 of the  
A.T.Act, 1985;

-And-

In the Matter of :

Mahendra Prasad Sahu, son of  
Sri Rajeshwar Sahu, aged  
about 61 years, Ex-Sr.  
Electrical Engineer, Chittar-  
ranjan Locomotive Works,  
under Dy.Chief Mechanical  
Engineer/Plant/Steel Foundary,  
C.L.W., Chittaranjan, Dist.  
Burdwan, West Bengal; resid-  
ing at C/o. Joy Nandan ~~Pras~~ Pra-  
sad, St.No. 33B, Qr. No. 33B,  
CLW/Chittaranjan, P.O.Chitta-  
ranjan, Dist. Burdwan (WB),  
Pin-713 331.

.. Applicant

-Versus-

1) Union of India ~~xxxxxx~~  
through the General Manager,  
Chittaranjan Locomotive Works,  
Chittaranjan, Dist. Burdwan,  
Pin-713 331.

H. Sahu  
(Mahendra Prasad Sahu)

ble

Date of order : 23.01.2017

Coram : Hon'ble Mr. A.K. Patnaik, Judicial Member

Hon'ble Ms. Jaya Das Gupta, Administrative Member

For the applicant : Mr. K. Sarkar, counsel

For the respondents : Ms. C. Mukherjee, counsel

O R D E R (ORAL)

Mr. A.K. Patnaik, J.M.

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 challenging the order dated 13.03.2015 & 22.04.2015 issued by the respondent authorities concerned confirming their stand regarding non-eligibility of promotion of the applicant to Gr. B post of Assist. Elect. Engineer against 30% quota in the LDCE in 1993-95 w.e.f. 06.01.1996, i.e. the date of promotion of the junior to the applicant inspite of having requisite qualification and eligibility criteria therefor in terms of Recruitment Rules to that post.

2. Ld. Counsel for the applicant submitted that this application is directed against the purported Memo. dated 22.04.2015 & 13.03.2015 of the Respondent No. 3 & 2 herein thereby holding that non-consideration of promotion to the Gr. B post of Asstt. Elec. Engineer against 30% quota in the Limited Departmental Competitive Examination conducted by the CLW authorities in the year 1993-95 to the applicant, stands good though fact remains that junior to the applicant gave such promotion w.e.f. 06.01.1996 superseding the rightful and legitimate claim of the senior, i.e. applicant herein in spite of having eligibility criteria therefor in terms of Recruitment Rules to that post.

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In the instant O.A. the applicant has prayed the following reliefs:

- i) To direct the respondents to cancel, withdraw and/or rescind the memo. dtd. 22.04.2015 & 13.03.2015 as contained in Annexure "A-6" herein;
- ii) To direct the respondents to give promotion to the applicant to the Gr. B post of AEE against 30% quota in the LDCE- 1995 w.e.f. 06.01.1996, i.e. the date of promotion given to the junior to the applicant during his service life under Chittaranjan Locomotive Works andrefix the pay of the applicant accordingly till his retirement from service i.e. 31.01.2015 and to pay the arrears of salaries and allowances therefor and thereafter refix the pension and pensionary benefits accordingly;
- iii) To direct the respondents to produce the entire records of the case before this Hon'ble Tribunal for effective adjudication of the Issues Involved herein;
- iv) And to pass such further or other order or orders as to this Hon'ble Tribunal may deem fit and proper.

4. Ld. Counsel for the applicant submitted that the applicant worked as Asstt. Elec. Engineer (PEE) under Govt. of Bihar for the period from 1981-1983. Thereafter the applicant joined in the post of Electrical Chargeman-A under C.L.W. being selected through Railway Recruitment Board on 16.11.1983. He was promoted to the post of Dy. Shop Superintendent. The Railway authorities conducted Limited Departmental Competitive Examination for promotion to the post of AEE against 30% quota wherein the applicant along with others appeared in the written test and came out successfully being 2nd out of five successful candidates and the result was published on 10.11.95 and thereafter viva-voce test was held on 16.11.95 and the applicant also appeared therein along with other candidates but unfortunately in the final select list the name of the applicant did not appear out of three selected candidates. Thereafter the applicant moved an application u/s 19 of the A.T. Act, 1985 before this Hon'ble Tribunal being OA No.

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4 of 1996 wherein the Hon'ble Tribunal vide order dt. 07.09.99 rejected the said application finding no merit in the said application and thereafter applicant moved the matter before the Hon'ble High Court at Calcutta being WPCT No. 501 of 1999 but the said writ petition was also rejected on the similar ground by the Hon'ble High Court vide order dated 31.01.2001.

5. Ld. Counsel for the applicant submitted that the applicant made a complaint against the Chief Vigilance Officer vide letter dated 08.03.99 followed by further representation to Dy. Chief Vigilance Officer on 31.05.2001 and then to the General Manager C.L.W. against the irregularities made in the said selection in the marks of Viva-voce and service record.

6. It is further stated by the applicant that he made representation to the authority concerned praying inter alia for correct evaluation of ACR for 5 years from 1991-92 to 1995-96 of the applicant for formation of panel for the post of AEE in Gr. B service against 30% quota through LDCE held in March, 1995. The applicant made further representation to the General Manager, CLW seeking natural justice based on actual facts in the selection of AEE/30% in CLW for the LDCE-2002.

7. Ultimately he was promoted to the post of Shop Superintendent. The applicant was promoted to the post of Asstt. Elec. Engineer on the basis of 70% quota in LDCE. He was lastly promoted to the post of Sr. Elect. Engineer. The applicant made a representation on 12.12.2013 to the CPO and 1st appellate authority under RTI Act, 2005 for supply of copies of APARs of the applicant for the years 1987-88 to 1995-96 and since he was not supplied with the requisite documents pursuant to his earlier representations dated 8.10.2013/14.11.2013 to



the P.I.O. under the RTI Act, 2005 of CLW and thereafter made further representation on 19.11.2014 to the Secretary, Railway Board on the same and similar selection and then to the CPO and Secretary, Railway Board on 19.03.2015 demanding justice against the selection of AEE (30%). The C.P.O, CLW vide memo dated 22.04.2015 intimated the applicant that the decision of the administration dated 13.03.2015 regarding selection held for promotion to Gr. B post of AEE in CLW against 30% quota stands good. The applicant retired from service on superannuation on 31.01.2015. The applicant made another representation to the Chief Vigilance Commissioner, CVC, New Delhi demanding natural justice for not granting promotional benefit to him to the post of AEE against 30% quota.

8. After perusal of the documents we find that praying for the self-same relief the applicant has filed O.A.No.14 of 1996 which was dismissed on 07.09.1999 and the said order of the Tribunal was affirmed by the Hon'ble High Court in WPCT.No.501/1999 vide order dated 31.01.2001. Therefore, in our considered view the instant O.A. is not maintainable on the ground of constructive res judicata.

9. Accordingly the O.A. is dismissed. No order as to cost.

(Jaya Das Gupta )  
Administrative Member

(A.K. Patnaik)  
Judicial Member

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