



AN APPLICATION :

CA. No. 350/01544/2016

Under Section 19 of the Administrative Tribunals Act, 1985.

BETWEEN

PRABHUDAS EKKA,
 Son of Late Augustin Ekka,
 Presently working as Sr.Loco Pilot (Passenger),
 under Sr.DEE, Eastern Railway, Howrah
 Railway Quarter No.395F, Burdwan,
 P.O. & Distt. Burdwan.

.....Petitioner/Applicant

AND

1. Union of India, through General Manager,
 Eastern Railway, 27, Netaji Subhas Road,
 Kolkata – 700 001.
2. The Chief Personnel Officer,
 Eastern Railway, 17 Netaji Subhas Road,
 Kolkata – 700 001.
3. The Divisional Railway Manager,
 Eastern Railway, Howrah.
4. The Sr. Divisional Personnel Officer,
 Divisional Personnel Officer,
 Eastern Railway, Howrah.
5. Sr. Divisional Elect. Engineer(OP)/TRS,
 Eastern Railway, Howrah.

W/CCS

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6. Divisional Finance Manager,
Eastern Railway, Howrah.

.....Respondents.

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No. O.A. 350/01544/2016

Date of order: 6.6.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member
 Hon'ble Ms. Jaya Das Gupta, Administrative Member

For the Applicant : Mr. B.R. Das, Counsel

For the Respondents : Mr. A.K. Banerjee, Counsel

O R D E R (Oral)

A.K. Patnaik, Judicial Member:

Heard Mr. B.R. Das, Ld. Counsel appearing for the applicant and Mr. A.K. Banerjee, Ld. Counsel appearing for the respondents.

2. This OA has been filed by Prabhudas Ekka, working as Sr. Loco Pilot (Passenger) under Sr. DEE, Eastern Railway, Howrah challenging the order No. E/14/TRS/3/Loco Pilot (Goods)/Elect dated 6.5.2015 issued by the Assistant Personnel Officer under authority of Respondent No. 4 and Order No. E/14/TRS/3/Goods Driver (E) dated 18.9.2009 issued by the Assistant Personnel Officer under authority of Respondent No. 4. This O.A. has been filed praying for the following reliefs:

"i) Rescind, recall, withdraw the order being Annexure A-I and allow re-fixation of pay of the petitioner by way of;

- a) Treating the petitioner as to have opted for promotion to the post of Loco Pilot (Goods) with effect from the date of promotion i.e. 18.9.2009.
- b) Allow the petitioner next increment in the promotion post of Loco Pilot (Goods) in scale of pay of Rs. 9300-34800/- GP Rs. 4200/- on 1.7.2010.
- c) Fix the pay of petitioner in the promotional post in scale of pay of Rs. 9300-34800/- G.P. Rs. 4200/- in accordance with the Rules FR-22(I)(a)(1) read with Rule-13 of RSRP Rules, 2008.

ii) Pay all the arrears arising out of I(b) & (c) with appropriate interests thereupon, forthwith.

iii) Certify that transmit the entire records and papers pertaining to the applicant's case so that after the causes shown thereof concessionable justice may be done unto the applicant by way of grant of reliefs as prayed for in (i) and (ii), above.

iv) Pass such other order/orders and/or direction/directions as deemed fit and proper.

Abdul

v) Costs."

3. The facts in a nut shell as per Mr. Das, Ld. Counsel for the applicant are that the applicant was appointed as Assistant Driver/Electrical Assistant Driver in Howrah Division of Eastern Railway through RRB. He was promoted as Loco Pilot (Shunting) Gr. II in the year 2004 carrying a scale of pay Rs. 4000-6000/- (RSRP, 1997) revised to Pay Band of Rs. 5200-20200/- with Grade Pay Rs. 4200/-. Thereafter a promotional order was issued fixing his pay in the promotional post by adjusting the amount due on account of higher grade pay only. His pay was not fixed under the Rules by allowing increments. He was also not allowed to exercise his option. He was entitled to fixation of his pay upon promotion with one increment on 18.9.2009 in the lower grade with DNI on 1.7.2010 as per extant Rules. On 6.5.2014 the respondents came out with an order to correct the pay already fixed on promotion w.e.f. 18.9.2009 but it was done incorrectly. According to the applicant the revised fixation was done incorrectly and was based on no option from him. Hence, his juniors who were recruited through RRB later on is getting higher pay than him. He preferred a representation, which is still pending consideration.

4. Mr. Das, Ld. Counsel for the applicant submitted that the grievance of the applicant would be more or less addressed if a specific order is passed by directing the concerned authority i.e. respondent No. 4 to dispose of the representation dated 20.2.2016 within a specific time frame.

5. We think it appropriate to dispose of this O.A. without waiting for reply by directing the respondent No. 4, that if any such representation have been preferred on 20.2.2016 and the same is still pending consideration, then it may be considered and disposed of by way of a well-reasoned order within a period of two months from the date of receipt of a copy of this order



under communication to the applicant and if after such consideration, the applicants' grievance is found to be genuine, then expeditious steps may be taken within a further period of three months from the date of such consideration to extend the benefits of pay fixation to the applicant. If in the meantime, the representation dated 20.2.2016 stated to have been pending have already been disposed of then the result thereof be communicated to the applicant within a period of two weeks from the date of communication of this order.

6. We make it clear that we have not gone into the merits of the matter and all points are kept open for the respondents to consider the same as per the rules and regulations in force.

7. A copy of this order along with paper book be transmitted to the respondent No. 4 by speed post for which Mr. Das undertakes to deposit necessary cost in the Registry by Friday i.e. by 9.6.2017.

8. With the aforesaid observation and direction, the O.A. is disposed of.

(Jaya Das Gupta)
Administrative Member

(A.K. Patnaik)
Judicial Member

SP