

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.584/2018

Date of Decision:17th September, 2018

**CORAM:HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)
HON'BLE SMT RAVINDER KAUR, MEMBER (J)**

Vinod Kumar Mishra
Age about 54 years
Working as SSE UP YARD,
Central Railway, Kalyan.
Presently residing at
2, Mahavir Yadav Chawl,
Near Jansheva Committee,
Andheri (E),
Mumbai – 400 069.

(By Advocate Shri Ulhas Shinde)

Versus

1. Union of India Through
The General Manager,
Headquarters,
Central Railway, CSTM
Mumbai – 400 001.
2. Divisional Railway Manager,
Mumbai Division,
Central Railway, CSTM,
Mumbai – 400 001.
3. Shri Indrapal Singh (reviterII)
TRS/KYN
Senior Divisional Electrical Engineer
Central Railway,
Kalyan.
4. Shri Prakash Hari Gonte (Electrical Fitter II)
TRS/KYN
Senior Divisional Electrical Engineer
Central Railway,
Kalyan.

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

Heard learned counsel for the applicant at length. This is stated to be the third round of litigation by the applicant after it was first ordered in OA No.267/2008 dated 22.12.2011 by which the promotional panel dated 26.10.2006 was quashed and the respondents were directed to draw a fresh panel. Following this, the respondents passed orders in their letter No.BB/P/234/Selection Cell dated 06.07.2012 and formed a suitable panel but in the meanwhile, it appears that the respondents had issued an office order of promotions in office Order No. 67 of 2008 dated 21.07.2008 (Annexure A-1) promoting a number of persons but omitting the name of the applicant.

2. The applicant, thereafter filed a second round of litigation in OA No.767/2017 which was decided on 24.01.2018, seeking parity and pay fixation from the date of promotion of other persons in the panel of 2006. In this OA, the applicant had not challenged the further promotion given to applicant in orders dated 22.12.2012 but had sought parity in fixation from 26.10.2006 to 10.02.2014. In view of this fact and even without bringing the office order of 2008 to the notice of this Tribunal, the

learned counsel withdrew his application and this was permitted by this Tribunal.

3. During the hearing, learned counsel for the applicant has informed that the applicant has since been promoted as SSE and therefore, he has no grievance on that aspect. However, he has now sought to restore the omission made by him in not challenging the office order No.67/2008 dated 21.07.2008 which he has now done in this application and despite the fact that those orders which include his alleged juniors are given prospective effect, he claims the effect of pay parity from the order of 2006 which also leaves this Tribunal in a state of confusion.

4. However, it is apparent that the applicant has challenged the orders of 2008 in this application without having challenged this matter previously.

5. During the hearing, learned counsel for the applicant also states that no representation has been filed on this matter before the respondents and therefore, this Tribunal does not have the benefit of the views of the respondents for adjudicating the matter.

6. Therefore, it is appropriate to direct the applicant to file an appropriate representation to the respondents and for the

respondents to provide him a reply through a reasoned and speaking order, within a period of twelve weeks from the receipt of such representation.

7. The legal issue of limitation will continue to apply and will be considered in case the grievance of the applicant continues to persist and if he seeks legal remedies thereon.

8. In the circumstances, the Original Application is disposed of with the above directions. No costs.

(Smt Ravinder Kaur)
Member (J)

(R.Vijaykumar)
Member(A)

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