

Central Administrative Tribunal
Patna Bench, Patna.
 [Circuit Court at Ranchi]

OA 51/00215/2016

Date of Order:- 23.10.2018

C O R A M

Hon'le Shri K.N. Shrivastava, Member A)
 Hon'ble J. V. Bhairava, Member [J]

Navin Kumar s/o late Birendra Prasad, aged 30+ years resident of 4, BSIL Railway Colony, Bhadudih, Chandil, District- Saraikela-Kharsawan, Jharkh-832401.

....Applicant

By Advocate : Shri M.A. Khan

Vs.

1. Union of India through the General Manager, South Eastern Railway, Garden Reach, Kilkata-700003.

..... Respondents.

By Advocate : Shri P.D. Singh

O R D E R
(oral)

Per K.N. Shrivastava, M [A] :- _____ The applicant was initially appointed as a Technician Grade-III in the Pay Scale Rs.3050-4590 (5th CPC) on 25.03.2006. He secured his regular promotion as Technician Grade-II on 27.06.2009 and was placed in the Pay Scale of PB-I, (Rs.5200-20200) with GP Rs.2400/-.

2. It is stated that one Shri D.T. Bhimte was directly recruited as Technician Grade -II on 17.04.2007. The contention of applicant is that Shri Bhimte joined on regular post as Technician Grade-II after the applicant had joined the said post on

27.06.2009 and hence in terms of RBE No. 115/2011 (Annexure -R/1) dated 16.08.2011, he has to be granted pay parity with Shri Bhimte. (Shri Bhimte has not been made party to this OA on the ground that he was removed from service on 03.07.2014).

3. The applicant had represented to the respondents for granting him pay parity with Shri Bhimte in the Grade -I but his case has been rejected by the respondents vide impugned Annexure A/8 letter dated 28.07.2016.

4. Aggrieved by the said rejection order, the applicant approached this Tribunal through instant OA praying for the following reliefs :-

"[8.i] To quash the order dated 28.07.2016 (Annexure -8).

[8.ii] For direction upon the respondents to grant stepping of his pay as Rs.10210/ instead of Rs.9840/- as technician Grade-II at par with directly recruited quota juniors in view of the railway board's letter dated 16.08.11.

[8.iii] For direction upon the respondents to pat the entire arrears with interest & consequential benefits."

5. Pursuant to the notices issued, the respondents entered appearance and filed their written statement to which rejoinder has been filed by the applicant. On completion of pleadings, arguments of both parties was heard today.

6. The main contention of Shri M.A. Khan , I/c for applicant is that the applicant had joined the post of technician grade-II on 27.06.2009 against a work charge post. In other words, the applicant served as Technician Grade-II from the date of his joining i.e 27.06.2009. Shri Khan argued that Shri D.T. Bhimte although appointed as Technician Grade -II on 17.04.2007, was not placed in any work charge post on that day and that he was to undergo training and after the completion of his training, he was posted as a Technician Grade-II after the date of 27.06.2009 when the applicant had already joined the post. He, therefore, argued that in terms of RBE No. 115/2011 and the Rules regulating to seniority of Railway Servants (Annexure R/1), the applicant is entitled for claiming pay parity with Shri D.T. Bhimte. Shri Khan further submitted that the case of the applicant is squarely covered by the order dated 13.02.2016 of Jabalpur Bench & the Tribunal passed in the case of Byas Kumar yadav vs Union of India in OA 47/2015.

7. Per contra, Shri P.D. Singh, I/c for respondents submitted that Shri D.T. Bhimte ws appointed as Technician Grade-II on 17.04.2007 on direct recruitment basis whereas the applicant came to that grade on 27.06.2009 by way of his promotion from Technician Grade-III, as such, the applicant is junior to Shri Bhimte and therefore he was not entitled to seek pay parity. The learned counsel for respondents also submitted that in the seniority list for technician grade-II published on 03.04.2014, the applicant had been shown junior to Shri D.T. Bhimte. He thus argued that the contention of applicant that he was senior to Shri D.T. Bhimte on the ground that he joined to the post of technician grade-II earlier deserved to be rejected.

8. We considered the arguments of learned counsels and perused the pleadings. It is not in dispute that Shri D.T. Bhimte and applicant came to the post of technician grade-II from two different streams. Shri Bhimte came through direct recruitment route whereas the applicant came through promotion route. The records also indicate that Shri Bhimte was, in fact, paid salary of the post of technician grade-II during his training period. The RBE No. 115/2011 relied upon by the applicant, basically deals with situation wherein a reserve category candidate gets promoted from lower grade to higher grade out of turn and thereafter general category candidates gets promoted, than the general category candidates gets back his earlier seniority applying the catch-up's rule. The facts of the instant case are entirely different as noticed hereinabove. The applicant's case cannot be compared with that case of Shri D.T. Bhimte for the simple reason that their induction to technician grade-II were from two separate streams. We have also gone through the order of Jabalpur bench of Tribunal in Byas Kumar yadav (supra). We find that even in that case the issue of seniority remained undisclosed. As a matter of fact, in para 7 of the said order, the Jabalpur Bench has clearly noted that *"Neither the applicant nor the respondents have produced any seniority list to show status of the applicant vis-à-vis Shri Binay Kumar's name in the seniority list"*. Accordingly, the Jabalpur Bench had disposed of the O.A with a direction to the respondents therein to decide the matter of pay fixation with further direction that if the applicant therein is found to be entitled for stepping up, then their pay may be stepped up. There is no specific direction given by the Jabalpur Bench in its

order. We, therefore, are of the view that no relief can be claimed by the applicant on the basis of the order of Jabalpur Bench.

9. Considering the fact that the applicant came to the grade of technician grade-II on 27.06.2009 by promotion whereas Shri D.T. Bhimte came to the grade on earlier to him on 17.04.2007 by direct recruitment, we are of the clear view that the applicant cannot claim pay parity with him. We do not find any merit in the case, accordingly, the O.A is dismissed with no order as to costs.

(J. V. Bhairava)
Member [J]

(K.N. Shrivastava)
Member A