

**Central Administrative Tribunal
Ernakulam Bench**

OA/180/00124/2016

Tuesday, this the 5th day of February, 2019.

CORAM

**Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member**

K. Murugan, aged 61 years
S/o Kalyani Asari
(Retired Blacksmith/Southern Railway/
Construction/Podanur)
Residing at: 1/32, D-1, 1st Floor
Nanjudapuram Road, Amman Nagar
Podanur, Coimbatore-641 023. Applicant

[Advocate: Mr.T.C.Govindaswamy]

versus

1. Union of India represented by the
General Manager, Southern Railway
Headquarters' Office, Park Town P.O.
Chennai-600 003.
2. The Chief Personnel Officer
Southern Railway
Headquarters' Office, Park Town P.O.
Chennai-600 003.
3. The Chief Administrative Officer
Southern Railway (Construction)
Egmore, Chennai-600 008.
4. The Deputy Chief Engineer (Construction)
Southern Railway, Podanur
Coimbatore-641 023.
5. The Senior Divisional Personnel Officer
Southern Railway, Palakkad Division
Palakkad-678 002. Respondents

(Advocate: Mr.V.A.Shaji, ACGSC rep by Ms.Dhanya)

The OA having been heard on 17th January, 2019, this Tribunal delivered the following order on 05.02.2019:

Q R D E R

By Ashish Kalia, Judicial Member

Applicant who superannuated from Railway service on 31.03.2015 as Blacksmith/Carpenter, is aggrieved by the denial of fitment benefits as Blacksmith Grade-III. He seeks the following reliefs:

- "i) Declare that the respondents are bound to deem the applicant to have been promoted as Blacksmith Grade III with effect from the date of Annexure A1, with all consequential benefits including seniority and promotion, within a time frame as may be found just and proper by this Tribunal.*
- ii) Direct the respondent to grant the consequential arrears of pay and allowances and also pension and other retirement benefits within a time frame".*

2. The applicant was initially engaged as a casual labour in Railway and was granted temporary status with effect from 1.1.1983. Later he was absorbed as a regular Gangman in the pay scale of Rs.775-1025 w.e.f 26.10.1987. He was transferred to Permanent Way Inspector/West/Podanur Section on 30.12.1988. There he made a request for a transfer to Construction Department and accordingly he was posted as Laskar in the scale Rs.750-940 under Executive Engineer/Construction/Podanur. His lien was maintained as Gangman at his parent department. While working as Laskar in the Construction, the applicant was promoted as Carpenter on ad-hoc basis in scale Rs.950-1500 w.e.f. 1.7.1994. Thereafter he was promoted as Senior Gangman in the scale Rs.2650-4000 on proforma basis in his parent department w.e.f. 6.5.1991. He was further promoted as Senior Gangman/Trackman in scale Rs.2750-4400 in his parent cadre w.e.f. 1.11.2003. Later, while working under the Construction Department he had applied for the post of Blacksmith and having passed trade test, the applicant was promoted as Technician-III/Blacksmith in the scale of Rs.3050-

4590 and posted to Section Engineer on 26.10.2004. That promotion would take effect from the date of shouldering responsibilities and if the employee failed to carry out the promotional transfer within 15 days, it would be treated as unwillingness for promotion. However, the applicant did not get relieved from the Construction department for carrying out his promotion as Blacksmith. The applicant did not join the post of Blacksmith at Mangalore in terms of Annexure A1.

3. Notices were issued to the respondents. Respondent No.5 has admitted the factual position and taken the only stand that the applicant had not joined as Blacksmith Gr.III under SE/P.Way/Mangalore based on Annexure A1 order, he had no locus standi or right to claim benefits granted to Sri K.Prabhakaran who had joined as Blacksmith at Kasaragode in terms of Annexure A1 order and, therefore, the applicant cannot ask for promotion to the post of Blacksmith Grade III because he had not shoulder the responsibility of the post.

4. Heard learned counsel for the parties and examined the pleadings.

5. The short question raised in the OA is whether the applicant could be given promotion as Blacksmith Gr.III in SE/P.Way where he was selected. The post of Blacksmith Gr.III was available only with SE/P.Way at Mangalore. In order to get the promotional post, the applicant could have applied for the post and shouldered responsibilities. He would have got the post and pay scale of Blacksmith Gr.III but in the present case the applicant has preferred to remain at Construction department of the respondents at Podanur. It is quite true that due to administrative exigencies, he was kept at the Construction Department. His seniority is given from the date of joining the post. One cannot claim the post without joining the post and shouldering the responsibilities of that post. We are

of the view that the present OA is devoid of merit and is liable to be dismissed.

Accordingly the OA is dismissed. No order as to costs.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

aa.

Annexures filed by the applicant:

Annexure A1: Copy of office order bearing No.J/W II/42/04 dated 26.10.2004 issued by the 5th respondent.

Annexure A2: Copy of letter bearing No.P 535/1/1/CN dated 2.3.2005 issued by the 3rd respondent.

Annexure A3: Copy of representation submitted by the applicant dated 2.8.2013 addressed to the 5th respondent.

Annexure A3(a): Copy of representation submitted by the applicant dated 19.1.2015 addressed to the 5th respondent.

Annexure A4: Copy of communication dated 1.3.2015, issued by the 4th respondent.

Annexure A5: Copy of letter bearing No.J/P 535/IX/Blacksmith dated 28.4.2015, issued from the office of the 5th respondent.

Annexure A6: Copy of communication bearing No.P.535/CN/PTJ dated 4.6.2015, issued by the 4th respondent.

Annexure A7: Copy of communication dated 2.10.2015, addressed to the 4th respondent.

Annexures filed by the respondents:

Annexure R1: Copy of Page 6 of Service Register.

Annexure R2: Copy of Page 7 of Service Register.

Annexure R3: Copy of office order dated 12.7.2007.

Annexure R4: Copy of Corrigendum dated 18.7.2007.

Annexure R5: Copy of order dated 6.7.2010.

Annexure R6: Copy of relevant portion of Service Register.

Annexure R7: Copy of relevant portion of Memorandum dated 8.8.2014.