

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATANo. O.A. 350/00439/2018
M.A. 350/00247/2018

Date of order: 1.2.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Niranjan Mondal,
 Son of Late Hargovind Mondal,
 Retired from South Eastern Railway,
 Kharagpur,
 Ex-Technician Grade – II (Carpenter),
 Department of Engineering,
 Residing at H. No. 1063, Shivnagar Road,
 Bhaganbari, Kharida (West),
 Post Office and Police Station – Kharagpur,
 District – Paschim Medinipore,
 Pin – 721 301.

..... Applicant.

-Versus-

1. Union of India,
 Service through the General Manager,
 South Eastern Railway,
 Garden Reach,
 Kolkata – 700 047.
2. The Senior Divisional Personnel Office,
 South Eastern Railway,
 Kharagpur,
 District – Paschim Medinipore,
 Pin – 721 301.
3. The Assistant Personnel Officer,
 South Eastern Railway,
 Kharagpur,
 District – Paschim Medinipore,
 Pin – 721 301.
4. The Senior Divisional Engineer (Con.),
 Kharagpur,
 South Eastern Railway, Kharagpur,
 District – Paschim Medinipore,
 Pin – 721 301.
5. The Senior Section Engineer
 /WKS/LINE. Kharagpur,
 South Eastern Railway, Kharagpur,
 District – Paschim Medinipore,
 Pin – 721 301.
6. The Assistant Divisional Engineer (West),
hnb

Kharagpur,
South Eastern Railway, Kharagpur,
District – Paschim Medinipore,
Pin – 721 301.

.....Respondents

For the Applicant : Mr. A.P. Deb, Counsel

For the Respondents : Mr. B.P. Manna, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The instant Original Application has been filed seeking the following relief:-

"(a) Direction upon the 'Respondents' to quash and/or set aside the APARs of the relevant period and to grant in promotion to the said post of Technical Grade – I (Carpenter) with retrospective effect.

(b) Quashing of the letter No. SER/P-KGP/EE210/Tech. I/Result/2016 issued by the Assistant Personnel Officer dated 1.4.2016 declaring the applicant as unsuitable.

(c) Direction upon the respondent to fix the pay/pension and to pay all consequential benefits thereto.

(d) Costs or incidental to and arising out of this application.

(e) Any other order or orders as your Lordship may deem fit and proper by way of moulding the reliefs."

2. Heard both Ld. Counsel, examined documents on record.

3. The matter is taken up at the admission stage.

4. The case of the applicant, as submitted through his Ld. Counsel, is that the applicant was working in the post of Technical Grade – II (Carpenter) in the Pay Band Rs. 5200-20200/- with Grade Pay of Rs. 2400/- with the respondent authorities.

Thereafter, on 7.1.2016, a circular was issued by the respondent authorities for promotion to the post of Technician Grade-I (Carpenter) with

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Grade Pay of Rs. 2800/- declaring nine vacancies of which the break up was UR-6, SC- Nil, ST-3. That, although the subordinate offices had been advised to send all records with updated ACRs/APARs of the applicant to be placed before Departmental Promotional Committee, the applicant was not informed of the outcome of the said Departmental Promotional Committee. The applicant thereafter obtained copies of his APARs through RTI and discovered that, despite adverse entries and remarks therein, the applicant was never given an opportunity to represent on the same in accordance with the ratio of *Dev Dutt v. Union of India & ors. 2008 (8) SCC 725* and, hence, the applicant, citing the case of *Abhijit Ghosh Dastidar 2009 (16) SCC 146* and *Dev Dutt (supra)* has approached the Tribunal in the instant Original Application to agitate on violation of his rights in representing against the adverse APARs.

Ld. Counsel for the applicant further submits that the applicant would be fairly satisfied, however, if his representations dated 8.5.2017 and 6.9.2017 are disposed of within a specific time frame by the competent respondent authority.

5. Ld. Counsel for the respondents does not object to the representations being considered as per law.

6. Accordingly, without entering into the merits of the matter and, with the consent of the parties, we direct the competent respondent authority, who is respondent No. 4, namely, Sr. Divisional Engineer (Con.), Kharagpur, S.E. Railway, to examine the contents of the applicant's representations to enable the applicant to represent against his APARs following the ratio of *Dev Dutt* and *Abhijit Ghosh Dastidar (supra)* and thereafter to arrive at a conclusion by observing requisite formalities in connection with the promotion of the applicant, as applicable.

The outcome of such examination and representation of the applicant against the APARs as well as further decision on his promotion, if due, in accordance to the entitlement of the applicant, should be conveyed in the form of a reasoned and speaking order.

[Signature]

The entire exercise may be completed within a period of twelve weeks
from the date of receipt of a copy of this order.

7. With these directions, the O.A. is disposed of. M.A. No. 350/00247/2018
arising out of the O.A. for condonation of delay is disposed of accordingly. No
costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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