

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA



No.O A.350/682/ 2011

Date of order: 25.02.2019

Coram : Hon'ble Mrs. Manjula Das, Judicial Member
Hon'ble Mr. N. Neihial, Administrative Member

1. Jitendra Nath Roy,
Son of Late Abhoypada Ghosh
Aged about 58 years,
Residing at Street No. 11,
Quarter No. 29A, Chittaranjan,
District – Burdwan, Pin – 713 331
Working for gain as Senior Technician
T. No. 23/537SSE/TN/ARS/23/CLW/CRJ

2. Debaprasad Ghosh
Son of Late Sunil Kumar Ghosh
Aged about 57 years
Residing at Street No. 1/B,
Quarter No. 4A, Chittaranjan,
District – Burdwan, Pin – 713 331
Working for gain as Senior Technician
T. No. 23/528SSE/TN/ARS/23/CLW/CRJ

..... Applicants.

-Versus-

1. Union of India
Service through the General Manager
Chittaranjan Locomotive Works Chittaranjan
District : Burdwan. Pin – 713 331.

2. The Chief Personal Officer,
Chittaranjan Locomotive Works,
Having its office at Chittaranjan,
District : Burdwan. Pin – 713 331.

3. The Dy. Chief Personal Officer (Works),
Chittaranjan Locomotive Works,
Having its office at Chittaranjan,
District : Burdwan. Pin – 713 331.

..... Official Respondents

4. A.K. Paul. T.No. 23/495
5. A.N. Ghosh, T. No. 23/536.
6. Jiten Roy T. No. 23/537.
7. G.C. Ghosh T.No. 23/541.

4 to 7 working for gain as Senior
Technician Chittaranjan Locomotive
Works, Chittaranjan, District : Burdwan.
Pin - 713 331.

.....Private Respondents.

For the applicant : Mr. B. Chatterjee, counsel

For the respondents : Mr. P. K. Roy, counsel

Manjula Das, Judicial Member

This O.A. has been preferred by the applicants under Section 19 of the Administrative Tribunals Act, 1985 in order to seek the following reliefs:-


- "8.a) Leave to move this application jointly under Rule 4(5)(a) of the Central Administrative Tribunal.
- b) An order do issue quashing the seniority list dated 04.04.2011 Annexure A-9 And notice dated 03.06.2011 (Annexure A-10).
- c) Consequential order directing the respondents their men agents and assigns to grant proper seniority to the applicant correcting their position in the seniority list dated 04.04.2011 and notice dated 03.06.2011 vis-a-vis the private respondents to circulate the same along with all notice for promotion to JE-II and to grant consequential promotion to Junior Engineer Electrical with all consequential benefits.
- d) Costs or incidental to and arising out of this application.
- e) Any other order or orders as your Lordships may deem fit and proper by way of molding reliefs."



2. Brief facts of this case as narrated by the applicants are as follows:-

(a) The applicants are appointed on 16.06.1976 and the private respondents were appointed on 24.06.1976 to the posts of Electrical Fitter. Both had completed training as Act Apprentices and on 30.06.1976 both the applicants as well as the private respondents were redesignated as Armature Winder. In 2008 the private respondents were granted promotion as Senior Technician in the scale of pay of Rs.5000-8000/- showing them as Electrical Fitter Gr.II whereas the applicants were left out. The applicants were granted promotion as Senior Technicians in September, 2009, that too, as MACP benefits in the grade pay of Rs.4200/- in the pay scale of Rs.9300-34,800/- w.e.f. 01.09.2008 which benefit the private respondents are yet to receive, but all on a sudden, the applicants were shown junior to the private respondents.

(b) Being aggrieved by such discrimination, the applicants made a series of applications under Right to Information Act and after a great deal of correspondences the applicants came to know that on 02.01.1987 the private respondents who were Armature Winder were redesignated by awarding proforma promotion to Skilled Grade II Technical Fitter and proforma fixation of pay was also granted to them. Although the applicants were senior to the private respondents and were treated as Armature Winder along with the private respondents, they were not granted promotion to Electrical Fitter-II and were arbitrarily left out without reasons. No options were called from the applicants whether they were willing to change over to Electrical Fitter (EF) from Armature Winder. It was not disclosed as to when the private respondents were asked to exercise their option for conversion. It was never disclosed when the trade test was held and who were called for the trade test for promotion to Electrical Fitter-



II or whether the applicants were ever called for such trade test and whether they refused.

(c) The applicants failed to understand as to how the private respondents got redesignated from Armature Winder(AW) to Electrical Fitter(EF) and promoted to Electrical Fitter-II whereas the applicants being seniors were left out to be superseded by them and shown juniors to them in the seniority list dated 04.04.2011.

(d) The applicants preferred representation to the authorities concerned on the basis of the reply received through RTI ventilating their grievances therein, but their prayer has not been considered till date. Being aggrieved and dissatisfied with such inaction on the part of the respondents, the applicants have approached this Tribunal seeking the aforesaid reliefs.

3. The respondents have filed their written reply denying the claim of the applicants. According to the respondents, this O.A is misconceived and contrary to service rules and circulars/notifications. The respondents submitted that the private respondents were promoted as Senior Technicians w.e.f. 16.04.2008 whereas the applicants promoted as Senior Technician w.e.f. 29.01.2011. They further submitted that MACP benefits are not dependent on seniority of a cadre but on the length of service in a particular grade, therefore, the applicants were granted the Grade Pay of Rs.4200/- under MACP w.e.f. 01.09.2008. The respondents also submitted that the applicants did not challenge the promotion of the private respondents superseding the applicants in the year 1984 and after lapse of more than 26 years they cannot challenge the same, therefore, the instant application is barred by law. The respondents have taken the plea that the applicants and the private respondents are belonging to separate trades and

for the purpose of selection of JE/Elec. a combined seniority list of different trades was prepared based on the date of promotion as Senior Technicians in their trades, therefore, there was no question of superseding the applicants by the private respondents and the instant application is not tenable in the eye of law and the applicants are not entitled to any relief.

4. The applicants have filed rejoinder wherein they submitted that on 02.01.1987 the private respondents who were the Armature Winder, were redesignated awarding proforma promotion to Skilled Grade-II, Technical Fitter w.e.f. 01.01.1984 and proforma fixation of pay was also granted to them. Although the applicants were appointed as Electrical Fitter on 16.06.1976, the private respondents were appointed as Electrical Fitter on 24.06.1976 i.e. after appointment of the applicants. The applicants further submitted that on 30.06.1976 both the applicants as well as the private respondents were redesignated as Armature Winder. Although the applicants were seniors to the private respondents, all on a sudden without seeking any option or without holding any trade test, the respondents changed the trade of the private respondents from Armature Winder to Electrical Fitter. It is submitted by the applicants that they made objection to such action of the respondents vide their representations dated 23.04.1987 and 23.03.1988 but the respondent authorities did not pay any heed to them. The applicants have taken the plea that they have challenged the combined seniority list dated 04.04.2011 whereby the applicants were assigned seniority below the private respondents, therefore, the question of delay as raised by the respondents in their reply, does not arise at all. According to the applicants, they and the private respondents are not belonging to the separate trades as both of them were appointed as Electrical Fitter and on

30.06.1976 both of them were redesignated as Armature Winder, but without seeking any option the respondent authorities again redesignated the private respondents from Armature Winder to Skilled Grade-II Electrical Fitter. Thus the applicants refuted the written reply of the respondents.

5. We have heard Id. counsel for both sides and perused the pleadings and materials available on record.

6. Having heard the Id. counsel for the parties and on perusal of records, it is noted that the private respondents were promoted as Senior Technicians w.e.f. 16.04.2008 whereas applicants got such promotion on 29.01.2011. Apparently the applicants got promotion as Senior Technician three years after the promotion of private respondents. They also got MACP in 2009. The combined seniority list was published on 04.04.2011 which shows that the private respondents are senior to the applicants.

7. In view of the above, we do not find any reason to interfere in the matter. Accordingly the O.A. stands dismissed. No order as to costs.

(N. Neihsial)
Administrative Member

(Manjula Das)
Judicial Member