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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A /350/1923/2015

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member.
Hon'ble Dr.(Ms) Nandita Chatterjee, Administrative Member

Sri. Bijoy Chowdhury
Age – 58 years
S/O Late Jagganath Chowdhury
Carpenter Gr. – II under SSE (W.S)/ Kanchra Para LOCO
Residing at Rly Qrts No. 1064 B
Danga Para Rly Colony,
PO – Kanchra Para,
Dist – North 24 Parganas, Pin – 743145.

.... Applicant.

- Versus -

Union of India and Ors. (E. Rly)
Represented by:-

1. The General Manager
E. Rly, 17, N.S. Road,
Kolkata – 700 001.
2. Divisional Rly Manager
E. Rly / Sealdah,
Sealdah – 700 014.
3. The Sr. Divisional Engineer (Cord)
E. Rly / Sealdah,
Sealdah – 700014.
4. The Sr. Divisional Engineer / 3
E. Rly / Sealdah,
Sealdah – 700014.

..... Respondents.

For the applicant : Mr. S.K. Mitra, counsel

For the respondents : Mr. A.K. Guha, counsel

Heard on : 12.11.2018

Order on : 16.11.18

ORDER

Bidisha Banerjee, Judicial Member

This O.A. has been preferred as a sequel to an earlier O.A.No.816 of 2012 decided on 09.06.2014 seeking the following reliefs:-

"8.(a) To pass order or direction upon the respondent authorities to consider the antedating promotion to the applicant on the ground as he already subjected to on 29.08.2008 and result where of was published on 16.02.2009 i.e. w.e.f. either 01.09.2008 or 16.02.2009 for financial up gradation by setting aside the speaking order dated 30th Dec 2014.

(b) To pass such other further order /or orders as your Lord ship may deem fit and proper."

2. The order dated 09.06.2014 in O.A.No.816 of 2012 reads as under:-

"5. In such view of the matter the OA is disposed of with a direction upon the Sr. DEN to ascertain whether a separate Trade Test was required for granting normal promotion to the applicant to the post of Carpenter Grade III, apart from the Trade Test the applicant was already subjected to on 29.8.08 and result whereof was published on 16.2.09. If no other trade test was required to be cleared by the applicant, to consider antedating his promotion in accordance with law, as Carpenter Grade III by issuing appropriate reasoned and speaking order within three months from the date of communication of this order."

3. The admitted facts as recorded in the aforesaid order dated 09.06.2014 are as follows:-

"2. The admitted facts which emerge from the pleadings of the parties are as follows:

Sri Bijoy Chowdhury was appointed on 4.11.1982 as Khalasi under SSE(W) West/KPA in scale Rs. 196-232 (as per SR) Rs. 750-940/- (revised) on 1.1.1986.

He was upgraded as Khalasi Helper in scale Rs. 800-1150/- w.e.f. 1.2.93 and pay fixed as Rs. 920/-.

Further financial upgradation, under ACP benefit has been granted on scale from Rs. 2650-4000/- to Rs. 3050-4590/- and pay fixed Rs. 3950/- w.e.f. on 1.3.07.

As per MACP of 8th CPC he was posted in scale Rs. 5200-20200/- with grade pay Rs. 1900/- and pay fixed Rs. 9500/- as on 1.9.08 (1st MACP).

His financial upgradation 2nd MACP has been granted w.e.f. 1.9.08 and grade pay fixed as Rs.2000/- P.M. with basic pay Rs. 9890/-.

The respondents have specifically contended the following:

The designation of Sri Bijoy Chowdhury as Carpenter, Gr. III was duly regularized through trade test w.e.f. 3.1.12.

His demand for promotion to Carpenter Gr. III with retrospective effect from 16.2.09 instead of 3.1.12, does not arises in any prevue.

He is entitled for 3rd financial upgradation benefit after completion of 30 years of regular service.

4. In the speaking order issued on 30th December, 2014 which is assailed in the present O.A., the Senior DEN has stated as follows:-

"The applicant was financially upgraded under ACP scheme w.e.f. 01.03.2007 and posted in the scale Rs. 3050-4590/- with basic pay Rs. 3725/- P.M. on completion of 24 years of regular service.

Thereafter, for filling-up existing vacancy in the next higher post i.e. Carpenter Gr. III, option was taken from eligible candidates and trade test was conducted on 29.8.2008 of which result was published on 16.02.2009 but the result could not be implemented for newly introduced MACP scheme as per 6th CPC which came into force w.e.f. 01.09.2008 for granting 1st, 2nd & 3rd financial up-gradation on completion of 10, 20 and 30 years service as per CPO/KKK Sl. No. 102/2009.

The applicant was not financially deprived during that period. Since the pay, scale and grade pay was converted as per 6th CPC in revised scale w.e.f. 01.09.2008 as pay fix as Rs. 9500/- in scale Rs. 5,200-20,200/- with grade pay Rs. 1900/- Further as per MACP scheme was granted Pay Rs. 10,500/- and grade pay Rs. 2000.

During the material time, no junior to him was promoted. Moreover, the applicant continued to work as Helper-I not as Carpenter-III i.e. he performed lighter duty only.

Presently he has been posted as Carpenter Gr. II w.e.f. 01.08.2014 and pay fixed as Rs. 12,760/- PM with grade pay Rs. 2400/-.

In view of the above, I the undersigned, being the Respondent No. 4 of the O.A. have come to conclusion that in no stage he was financially deprived and Railway administration has followed the extant rules in this respect as amended from time to time."

5. Several documents have been produced by the applicant in substantiation of the fact that the applicant was trade tested in 2008, but trade test the applicant was subjected to in 2008 was in regard to financial upgradation under ACP Scheme and not for regular promotion as claimed by the applicant, therefore, his prayer for grant of regular promotion on the basis of a trade test meant for grant of ACP benefits was turned down by the authorities which is the subject matter of challenge in this O.A.

6. Reply filed by the respondents shows that the applicant was posted as Carpenter Grade-III "duly regularised" through trade test with effect from 03.01.2011 which implies that a trade test was conducted for his regular promotion to Carpenter Grade-III, in 2011 and no junior to him was promoted superseding his claim. The respondents have stated that "his demand for promotion to Carpenter Gr.III with retrospective effect from 16.02.2009 instead of 03.01.2012 does not arise in any purview." The respondents have further stated that "he is entitled for 3rd financial upgradation under MACP Scheme after completion of 30 years of regular service and financial benefits of MACP Grade Pay Rs.2400/- with one increment which has already been given to him vide SSE/W/WS/KPA under AEN/I/KPA, B.U.No. 702/KPA for the month of April, 2013 w.e.f. 21.12.2012. Thereafter, he has been promoted as Carpenter Gr.II w.e.f. 01.08.2014 and his pay was fixed at Rs.12,760/- with Grade Pay Rs.2400/-".

Therefore, we find no infirmity in the order under challenge.

7. In view of the above admitted position, the claim of the applicant for grant of regular promotion on the basis of trade test meant for grant of financial benefits under ACP Scheme is not tenable.

8. The O.A. is accordingly dismissed. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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