

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00531/14

Reserved on: 02.01.2019
Pronounced on: 04.01.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Praveen Kumar Saxena, Son of Late V.D. Saxena, Dy. Chief Electrical Engineer (Works), East Central Railway, Hajipur.

..... Applicant.

- By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the Chairman, Railway Board, Ministry of Railway, Rail Bhawan, New Delhi.
2. The Secretary, Railway Board, Ministry of Railway, Rail Bhawan, New Delhi.
3. The Member (Staff), Railway Board, Ministry of Railway, Rail Bhawan, New Delhi.

..... Respondents.

- By Advocate: - Mr. Mukundjee
Mr. Rajesh Mohan

O R D E R

Per Dinesh Sharma, A.M.:-The case of the applicant is that his promotion to the Junior Administrative Grade (JAG) was delayed because of pendency of a disciplinary enquiry against him and finally on completion of this enquiry a punishment of "reduction to two stage lower in time scale of pay for a period of one year without any effect of postponing the future increments of pay" was imposed. The period of this penalty started on 25.07.2012 and expired on 24.07.2013. This punishment should not have affected his seniority and also the consideration for his next

promotion. However, his case was not considered by the DPC at the time when his batch got promotion to the Selection Grade in the year 2014. On his enquiring with the department he was told that since his promotion to the JAG was considered with the batch of 2001, the promotion to the next grade (Selection Grade) will also be considered along with that batch only. The applicant has argued that it is a wrong interpretation of the relevant government circulars especially para-2 under Penalty No. V& VI of Rule 8 of Railway Servants (Discipline and Appeal) Rules, 1968 regarding fixation of seniority of Railway Servant reduced to a lower post/Grade/Service for a specific period as a measure of penalty and subsequently repromoted to higher post after the expiry of the period of punishment. He has quoted from a circular of the Railway Board on this Rule which is reproduced below (Ref.- Annexure 2 Series): -

“ 2. As regards item (1) above, Rule 2012(1) (RII 1323 of 1987ed) and Note (1) under Rule 1715-RI provides that if a Railway servant is reduced as a measure of penalty to a lower stage in his time scale, the authority ordering such reduction shall state the period for which it shall be effective and whether on restoration the period of reduction shall operate to postpone his future increments and if so, to what extent. In such cases the seniority of the person concerned shall remain unaffected.”

2. The respondents have denied the claim of the applicant. In their written statement they have talked about the general procedure of holding DPC for promotion and have accepted that the promotion of the applicant to JAG was delayed because of the imposition of penalty on him after following a disciplinary action. They have accepted that the

operative period of that penalty was from 25.07.2012 to 24.07.2013 and therefore the date of promotion to JAG grade happened to be following the date of the operative period of penalty.

3. After going through the pleadings and hearing the parties, it is clear that the Railway Department has not given any convincing reason for not considering his case for promotion to Selection Grade along with his batch (2000) except for quoting DoP&T's instructions which mention that "in case an officer is suspended the officer would be considered along with the batch with which his seniority is fixed". This rule apparently is not applicable on the facts of the applicant's case where his seniority was not disturbed by the punishment given. It is nowhere stated by the respondents that the DPC which met to consider the applicant's case for promotion to Selection Grade denied him promotion because of any reason other than considering him with the batch of 2001 officers which is prima facie wrong. Hence, the OA succeeds. Respondents are directed to put before the DPC the case of promotion of the applicant to the Selection Grade with effect from the date his juniors in the batch of 2000 got promoted. The DPC should recommend his promotion if does not find any other relevant reason for denying this. The above exercise shall be completed by the respondents within three months from the date of receipt of this order. Accordingly, the OA is allowed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member