

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHCIRCUIT BENCH AT RANCHIOA/051/00129/2016Date of Order:- 20-Dec-2018**C O R A M**

HON'BLE MR. JAYESH V.BHAIRAVIA, MEMBER (JUDL.)

HON'BLE MR. PRADEEP KUMAR, MEMBER (ADMN.)

.....

Ashok Kumar, S/o Nageshwar Prasad Yadav, aged 47 years, residing at Quarter No.E-II/2, Railway Colony, PO & PS-Tatisilwai, District-Ranchi-835 103, Jharkhand.

.....Applicant.By Advocate:- Mr. M.A.Khan.

Vs.

1. Union of India through the General Manager, South Eastern Railway, Garden Reach, Kolkata, PO, PS-Kolkata, District-Kolkata-700 043, West Bengal.
2. The Chief Personnel Officer, South Eastern Railway, PO, PS-Kolkata, District-Kolkata-700 043, West Bengal.
3. The Divisional Railway Manager, South Eastern Railway, Ranchi Division at Hatia, PO-Hatia, PS-Jagannathpur, District-Ranchi-834 003, Jharkhand.
4. The Senior Divisional Personnel officer, South Eastern Railway, Ranchi Division at Hatia, PO-Hatia, PS-Jagannathpur, District-Ranchi-834 003, Jharkhand.
5. The Senior Section Engineer (P.Way), Engineering Department, South Eastern Railway, PO & PS-Tatisilwai, Dist.-Ranchi-835 103, Jharkhand.Respondents

By Advocate:- Mr. Prabhat Kumar, Standing Counsel.**O R D E R (ORAL)****Per Pradeep Kumar, Member (Admn.):**- The applicant joined

the respondent Railway as a Trackman on 08.08.1996. He

was promoted as Jr. Clerk in the year 2002 and thereafter he was promoted as Sr. Clerk. Further channel of promotion lies from Sr. Clerk to Office Superintendent (OS) and from OS to Chief Office Superintendent (COS). The four posts of Jr. Clerk, Sr. Clerk, OS & COS are combinedly called ministerial staff in Engineering Department of respondent Railway.

2. The applicant pleads that as part of restructuring he is entitled to be promoted as OS under promotion category, his seniority position being at sl.no.4 in the relevant seniority list. The applicant pleads that as per the RTI information received by him vide respondents' letter dated 18.08.2015, the total number of sanctioned posts under ministerial staff in Engineering Department as on 1.11.2013, were 59 out of which there were 11 posts of COS and 31 posts of OS against which the working strength was 9 for COS and 29 for OS.

3. The applicant has pleaded as under as seen from para-4 of the rejoinder:-

“That in reply to para-7, I have to say and submit that applicant is entitled for promotion to the post of Office Superintendent in PB 9300-34800 GP Rs.4200 since vacancy position of the OS including higher grade posts was 04 as per information under RTI Act 2005 as on 01.11.2013 and if review done earlier, the cadre

position of Engg. Deptt. should stand as 08 after revision through restructuring. Seniority position of the applicant, in the list of Sr. Clerks, stands at Sl.no.04 in the revised seniority list of Sr. Clerk in the scale of Rs.5200-20200 GP Rs.2800 in Engg. Deptt. as on 1.7.2013 of Ranchi Division.”

4. As against this, the respondents have pleaded that as per the distribution of existing vacancies as on 01.11.2013, there were 2 vacancies for COS and there were 2 vacancies for OS. Since COS is a promotional post from OS, there were effectively 4 vacancies only for OS (As 2 OSs would have to be promoted to COS, leading to two more vacancies for OS). Thus there were 4 vacancies for OS, out of which 80% is to be filled from DPQ and 20% from LDCE. Respondents have brought out in their counter that:

“ Vacancy assessment was made as per Estt. Srl No. 36/2006 whereby the vacancy of 02 LDCE and 02 DPQ was made and out of 02 DPQ, 01 vacancy was kept for SC candidate. The applicant is not coming within the zone of consideration as his position stands at serial no. 5 against the 1 UR vacancy.”

5. The respondents thus plead that the applicant was not coming within the zone of consideration for DPQ, as his seniority position was lower. Further, the applicant belongs to OBC.

The respondents also plead that vacancies against 20% LDCE quota, were notified on 7.5.2014 for serving Graduate staff who fulfil the terms and conditions. The said exam was conducted and panel was published on 2.2.2016.

6. Matter was heard at length. The applicant was represented by Shri M.A.Khan while the respondents were represented by Shri Prabhat Kumar, Standing Counsel.

7. The basic contention of the applicant that number of vacancies were more (as 8 and not 4) and as such DPQ ought to have been for more number of posts, is not coming out from the factual information which has been relied upon by the applicant as per an RTI reply dated 18.08.2015. The RTI reply has not been controverted by respondents. Calculation of vacancies for OS as 4, has already been explained in para 4 supra. In the event, there is no basis for the applicant to claim that DPQ for OS, ought to have been for more number of vacancies. Therefore, no more reasoning is required to be gone into in the instant case for vacancies of OS as of 01.11.2013.

8. There appears to be certain confusion about seniority position of applicant which as per seniority list is Sl. No. 4,

whereas respondents have mentioned it to be Sl. No. 5. However, this is not relevant in view of factual matrix in respect of vacancies of OS.

9. The contention of the applicant, therefore, is not gaining acceptability and hence, the instant OA is not accepted.

10. In the result, the OA stands dismissed being devoid of merit. No costs.

Sd/-
(Pradeep Kumar)
Member (Admn.)

Sd/-
(Jayesh V.Bhairavia)
Member (Judl.)

skj