

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.2118/2018

New Delhi, this the 28th day of May, 2019

**Hon'ble Mr. R.N.Singh, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Bishamber
Aged 60 years
S/o Sh. Nathe
Retired as Tech-I (Fitter), Northern Railway
Delhi Division, New Delhi
R/o H.No.168, Gali No.11, Bhatwali Garden
Jain Marg, Dwarka,
Delhi. ... Applicant

(By Advocate:Shri Yogesh Sharma)

VERSUS

1. Union of India through the General Manager
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager
Northern Railway, Delhi Division
State Entry Road,
New Delhi.
3. The Divisional Personnel Officer
Northern Railway, Delhi Division
State Entry Road,
New Delhi. ...Respondents

(By Advocate:Shri Krishna Kant Sharma)

O R D E R (Oral)

By Hon'ble Shri R.N.Singh, Member (J)

Heard Shri Yogesh Sharma, learned counsel for the applicant and
Shri Krishna Kant Sharma, learned counsel for respondents.

2. The applicant, who has retired while working as Technician
Grade-I under the respondents w.e.f.30.11.2017 on attaining the age

of superannuation has approached this Tribunal praying for the following reliefs :-

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 10.01.2018 (A/1) and order dated 30.11.2017 (A/2) only to the extent by which the applicant has been ordered for granting benefits of cadre restructuring with immediate effect and consequently, pass an order directing the respondents to grant the benefits of cadre restructuring w.e.f.1.9.2016 by way of promoting the applicant to the post of Senior Technician (MCM) at par with other similarly situated persons with all the consequential benefits with arrears, revision of retirement benefits with interest.

(ii) That in case of not granting the above prayed relief (i) for any reasons, the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to treat applicant promoted on 30.11.2017 and consequently fix the pay of the applicant to the post of Senior Technician (MCM) w.e.f.30.11.2017 with all the consequential benefits including revision of retirement benefits with arrears and interest.

(iii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation."

3. Precise facts leading to the present OA are that the applicant was initially appointed as Cleaner on 26.05.1982 and was further promoted to the post of Technician-III (Fitter), Grade-II and lastly Grade-I. The respondents have conducted cadre review w.e.f. 01.09.2016 by which the number of posts of Senior Technician (MCM) have increased and to fill up such posts of Senior Technician (MCM), the respondents conducted the trade test and the applicant being eligible to participate in such trade test, appeared and qualified in the said trade test. The final result of trade test was declared by the S/cell of P-Br on 29.11.2017. However, the respondents have not granted the benefits of cadre restructuring and consequently promoting the applicant to the post of Sr. Technician (MCM). Therefore the present OA. The respondents have filed reply to the OA.

4. The learned counsel for respondents submits that the result dated 29.11.2017 was issued by the S-Cell only. Though the respondents have prepared an Order regarding suitability for the post of Sr. Technician (MCM)/C&W in Mechanical Department grade vide DRM's office No.293/E/227/pt-VII/P-5 dated 30.11.2017, however, the same was signed by Div. Personal Officer only on 04.12.2017 (Annexure A-2). In the said list, applicant's name appeared at sl no.286, however, as the applicant has retired on attaining the age of superannuation on 30.11.2017 and he could not have shouldered higher responsibility of Sr. Technician/C&W, his name in the final list of officers found fit for posting as Sr. Technician (MCM) dated 20.12.2012 could not find place.

5. Learned counsel for the applicant argued that though the benefit was required to be given from 01.09.2016, however, the respondents have conducted the requisite trade test late and the result thereof is admittedly declared on 29.11.2017. Further they have prepared the panel of the eligible and suitable persons vide order dated 30.11.2017 and on such date also the applicant was very much in service. However, simply for the reasons attributable to the respondents the same could not be issued before the date of retirement of the applicant and could be issued only on 04.12.2017 as such, the applicant should not be deprived of the benefits of promotion after cadre restructuring, he qualified the requisite examination and he was found in the list of eligible candidates for promotion prepared on 30.11.2017 and that, too, when he is not likely to get any other benefits, except the fixation of his pension and sort of honour that he retired from higher post. It is reiterated on behalf of the applicants

that for the reasons attributable to the respondents, the applicant should not have been made to suffer. He further argued that impugned order dated 10.01.2018 has been passed in mechanical manner and without considering this aspect and the claim of the applicant has been rejected.

6. Shri Krishna Kant Sharma, learned counsel for respondents submits that the examination was conducted, however, declaration of result took time and preparation of final panel of officers for promotion could not be issued before the retirement of the applicant for bonafide and administrative reasons and, therefore, the order passed by the respondents is in order.

7. However, in the facts and circumstances noted above and particularly the facts that the delay is not attributable to the applicant and the applicant is likely to get pensionary benefits if he is considered for being promoted in the view of the respondent's letters dated 30.11.2017/04.12.2017, the matter is remitted to the respondents with direction to the respondent no.2 to consider the matter afresh and pass a reasoned and speaking order within ten weeks from the date of receipt of a certified copy of this order. No costs.

(Mohd. Jamshed)
Member (A)

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(R.N.Singh)
Member (J)