

Central Administrative Tribunal

Principal Bench

OA No.1768/2014

New Delhi, this the 13th day of February, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Dr. Udai Singh (retired),
S/o Shri Aidal Singh,
Aged about 64 years,
R/o H.No.4A, Hari Nagar Ashram,
Near Shalimar Cinema,
New Delhi-110014.

...Applicant

(By Advocate : Shri Ajesh Luthra)

VERSUS

1. The Railway Board,
Through the Chairman,
Rail Bhawan,
New Delhi-110001.
2. Ministry of Railways,
Through General Manager,
EC Railway, Hazipur.

...Respondents

(By Advocate : Shri Rajinder Nischal)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant retired from the service of the respondents in the Senior Administrative Grade (SAG).

By the time he retired, the Administration took a decision through Circular dated 26.02.2009, to upgrade certain posts to the level of Higher Administrative category. The post held by the applicant was one of them. This OA is filed with a prayer to direct the respondents to consider his case for promotion to Higher Administrative Grade (HAG) w.e.f. 26.02.2009 for the year 2009-2010 and to extend him the attendant benefits.

2. The applicant contends that a right to be considered for promotion to HAG w.e.f. 26.02.2009, accrued to him and though criteria in this behalf were stipulated vide Resolution dated 11.06.2010, the respondents were under obligation to apply the same, as on 26.02.2009.

3. Respondents filed counter affidavit opposing the OA. It is stated that the applicant became entitled to be considered for promotion to HAG and accordingly, his case was considered for the year 2009-2010. It is stated that, by that time, there existed a Resolution of the year 2007, according to which, an officer must have five years of service in SAG and should be less than 59 years of age. It is stated that the applicant did not have five years of service as SAG when he was considered in the year

2009-2010. It is further stated that though the criteria were changed through Resolution dated 11.06.2010, reducing the service in SAG from 5 years to 3 years, by the time he was considered in the year 2010-2011, he did not have left over service of one year and crossed 59 years.

4. We heard Shri Ajesh Luthra, learned counsel for applicant and Shri Rajinder Nischal, learned counsel for respondents.

5. To the extent the applicant has moved to SAG, there is no controversy. The question is about his entitlement to be considered for promotion to HAG. The decision in this behalf was taken on 26.02.2009. The criteria to be applied for promotion to HAG were already in place in the form of Resolution dated 28.03.2000, which in turn was approved by the Government, Ministry of Railways on 05.06.2007. According to this, an officer must have 5 years of minimum service in the SAG on regular basis and should be less than 59 years of age as on 1st April of that year. The respondents applied this criteria to the applicant, when his case was considered for the year 2009-2010. It emerged that the applicant did not have 5

years in SAG. Therefore, he was treated as not eligible for promotion.

6. In the subsequent year, the case of the applicant was considered. However, by that time, he crossed 59 years of age. The reduction in the minimum service in SAG from 5 years to 3 years through a Resolution dated 11.06.2010 did not make much of the difference for the applicant, when his case was considered in the year 2010-2011. Though he fulfilled that condition, he crossed the age limit.

7. In that view of the matter, we do not find any merit in the OA and the same is, accordingly, dismissed.

There shall be no order as to costs.

(Mohd. Jamshed) (Justice L.Narasimha Reddy)
Member (A) Chairman

'rk'