

**Central Administrative Tribunal
Principal Bench**

**OA No.4170/2013
MA No.3172/2013
MA No.3173/2013**

New Delhi, this the 14th day of May, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Viney Kumar,
S/o Shri Bachalal Paul,
Loco Pilot (Shuter),
Railway Station Anand Vihar,
Northern Railway,
New Delhi
(with 29 others as per Memo of Parties)

...Applicants

(By Advocate : Ms. Meenu Mainee)

Versus

Union of India : Through

1. Secretary,
Railway Board,
Ministry of Railways,
Rail Bhawan, New Delhi.
2. General Manager,
Northern Railway,
Baroda House,
New Delhi.
3. Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

...Respondents

(By Advocate : Shri S.M.Arif)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicants were working as Loco Pilot, Shunter (for short, LPS) in the Northern Railways in the year 2013. Promotion from that is to the post of Senior Loco Pilot Shunter (for short, SLPS). The required residency period in the feeder post is two years. The applicants contend that they completed the residency period by 14.02.2013 and though there was adequate number of vacancies in the post of SLPS, they were not promoted. Responding to a representation submitted by the applicants, a communication was issued on 05.06.2013, stating that the seniority list of LPS is under revision and as soon as that is completed, promotions will be effected. This OA is filed with a prayer to direct the respondents to promote the applicants to the post of SLPS, with effect from the date, on which they acquired the eligibility or vacancies become available. Prayer is also made for extension of the consequential benefits.

2. Respondents filed counter affidavit opposing the OA. It is stated that the promotions to the post of SLPS were made in the year 2010, and since the names of the applicants did not figure in the seniority list, they were

not considered. It is also stated that in the year 2013, the preparation of seniority list was taken up and a provisional seniority list was issued on 02.08.2013. According to the respondents, though the revised seniority list was finalised on 08.01.2014, the applicants were promoted much before that date, i.e. with effect from December, 2013.

3. We heard Ms. Meenu Mainee, learned counsel for applicant and Shri S.M. Arif, learned counsel for respondents.

4. Though the applicants were making efforts to get promoted to the post of SLPS, substantial part of their grievance was redressed on account of their promotion with effect from December, 2013 during the pendency of the OA. Now, their only grievance is that the promotions should have been w.e.f. 14.02.2013, the date on which they completed their residency period.

5. The occasion to shift the promotion of an employee to an early date arises, if only a junior is promoted with effect from an earlier date, or when a policy decision is taken in the context of any special circumstances. The

applicants did not plead that any LPS, junior to them was promoted to SLPS. Though reliance is placed upon a Circular of Railway Board, it is only to the effect that whenever promotions are to be made other than through selection, endeavour should be made to promote the employees as soon as they become eligible. This, however, is qualified with the phrase “as far as possible”.

6. One hardly, comes across any specific rule, which mandates that an employee shall be promoted to a higher post as and when he becomes eligible. Even where an employee becomes eligible and vacancies exist, much would depend upon the decision to be taken by the Administration.

7. If there is undue delay, an employee can certainly complain about it, before the proper forum. Here again, the necessity to shift the promotion to an early date would depend upon the circumstances, as indicated in previous paragraphs. Across the bar, it is pleaded that delay in the promotion of the applicants has resulted in denial of one increment, which in turn, would have its effect for rest of the service. Grant of increment is only incidental to the promotion and the same cannot have

any bearing on the entitlement of an employee, to be promoted.

8. We do not find any merit in the OA and it is accordingly dismissed.

Pending MAs, if any, stand disposed of.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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