

**Central Administrative Tribunal
Kolkata Bench, Kolkata**

O.A. No.257/2013



Wednesday, this the 12th day of June 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Dr. Nandita Chatterjee, Member (A)

Suresh Chandra Deb son of late Prakash Chandra Deb
Aged about 65 years, ex Good Guard
Under Sr. DOM, Alipurduar Junction,
Since retired, residing at Flat No.12
Dinesh Apartment (3rd Floor)
Jhowtala Road, PO Hatiara
Kolkata – 700 157

..Applicant

(Mr. J R Das, Advocate)

Versus

1. Union of India service through the General Manager
North East Frontier Railway, Maligaon
Guwahati – 11, Assam
2. FA & CAO (Pen), North East Frontier Railway
Maligaon, Guwahati – 11, Assam
3. Divisional Railway Manager (P)
N F Railway, Alipurduar Junction Pin 730123
Dist. Jalpaiguri, West Bengal
4. Sr. Divisional Operation Member,
N F Railway, Alipurduar Junction Pin 736123
Dist. Jalpaiguri, West Bengal
5. Shri Ashish Adhikary, son of not known,
Sr. Goods Guard, under Sr. DOM
N F Railway, Alipurduar Junction Pin 736123
Distt. Jalpaiguri, West Bengal

..Respondents

(Nemo)

ORDER (ORAL)**Justice L. Narasimha Reddy:**

The applicant joined the service of Northeast Frontier Railway as a Khalasi on 04.06.1971. Over the period, he earned promotions and the last of one was as Goods Guard. He retired from service on 31.03.2007 on attaining the age of superannuation. The applicant contends that he became eligible to be promoted to the post of Senior Goods Guard and though there existed quite large number of vacancies while he was in service, the promotions were not effected and thereby he was deprived of an opportunity of being promoted. It is stated that as many as four Goods Guard were promoted on 04.04.2007 and three of them were juniors to him. In view of this development, the applicant filed this O.A. claiming relief in the form of a direction to the respondents to allow him the benefit of promotion to the post of Senior Goods Guard in the pre-revised pay scale of Rs.5000-8000, with effect from the date on which his junior were given such benefit. He has also prayed for grant of benefits of revision of pay scale under 6th Central Pay Commission (CPC).

2. The respondents filed counter affidavit opposing the O.A. It is stated that notification for promotion to the post of Senior Goods Guard was issued only on 04.04.2007 and since the applicant stood retired from service by that time, he was not entitled for the benefit.



3. We heard Mr. J R Das, learned counsel for applicant. There is no representation for the respondents. In terms of Rule 16 of CAT (Procedure) Rules, we perused the records.

4. It may be true that the applicant became eligible to be considered for promotion to the post of Senior Goods Guard and there existed vacancies in that post by 31.03.2007. The fact, however, remains that the selection process had not taken place before the applicant retired from service. It was only on 04.04.2007, that the notification was issued promoting four Goods Grade as Senior Goods Grade; three of them are juniors to the applicant.

5. The applicant did not initiate any steps to compel the respondents to take up the process of promotion to the post of Senior Goods Guard while he was in service. We cannot deal with that issue at this stage. Secondly, the applicant can claim the benefit of promotion to the post of Senior Goods Guard, *albeit* on notional basis, only if a Goods Guard, junior to him, was promoted to the post of Senior Goods Guard, with effect from the date anterior to the one, of the retirement of applicant. This would be so even if the promotions have taken place after the retirement of the applicant. For example, the process for promotion has commenced at a time when the applicant was in service, his case was considered, but the orders of actual promotion were issued only posterior to his retirement. In such cases, the promotions shall take effect from the date of consideration by the Departmental Promotion Committee (DPC), which naturally

reg in

would be the date before which the applicant retired from service. In the instant case, however, there is nothing on record to show that (i) the DPC has met before 31.03.2007 or (ii) the name of the applicant was considered.

6. The entire exercise appears to have taken place after the retirement of the applicant. As long as the juniors Goods Guard to the applicant were not promoted with effect from any date anterior to 31.03.2007, the claim made in the O.A. cannot be granted.

7. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Dr. Nandita Chatterjee)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

June 12, 2019
/sunil/