

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 350/00566/2019

Date of order: 7.6.2019

Present : Hon'ble Dr. Nandita Chatterjee, Administrative Member

Manabendra Mukherjee,
Son of late Sasthi Kinkar Mukherjee,
Age about 56 years,
Residing at Quarter No. 23-B/7, BWN
(near Loco Health Unit)
Post Office- Burdwan,
District- Burdwan,
Pin- 713101.

.....Applicant.

-versus-

1. Union of India,
Through General Manager,
Eastern Railway,
Fairlie Place,
Kolkata- 700001.
2. The Senior Divisional Personnel Officer,
Eastern Railway,
Howrah Division,
Howrah- 711101.
3. Assistant Personnel Officer (G),
Eastern Railway,
Howrah- 711101.
4. The Senior Section Engineer (TRS),
Eastern Railway,
BWN- 713101.

.....Respondents.

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. K. Bhattacharjee, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

"(I) The Office order dated 27.04.2018 issued in respect of the applicant cannot be sustained in the eye of law and as such same may be quashed.

(II) An order do issue directing the respondents to exercise option for incremental date benefits from his next increment date with effect from 11.03.2009, i.e. the date on which he got the benefit of MACP and thereafter to refix the pay of the applicant and to grant arrears."

2. Heard both Ld. Counsel, examined documents on record. The matter is taken up at the admission stage.

3. The Ld. Counsel for the applicant would submit that the applicant was initially appointed as a Safaiwala and he had received the benefit of Technician, Gr. III on 14.1.2017, and that of 1st MACP w.e.f. 11.3.2009. That, the applicant represented to the concerned respondent authorities for fixing his pay at Rs. 29,300/- as the pay of several juniors to him was fixed at that level. In response to his representation, however, the applicant was informed vide communication dated 27.4.2018 that he was not granted incremental benefits as because he had failed to exercise his option towards the same.

According to the applicant, he had not been given any opportunity to exercise his option and, that, under any circumstances, a junior cannot get higher pay than a senior and, hence, being aggrieved, challenging the said communication, the applicant has approached the Tribunal.

Ld. Counsel for the applicant further submits that the applicant may be given liberty to file a comprehensive representation to the respondent authorities in which he will refute the contentions of the order dated 27.4.2018 and will attempt to justify his claim. Ld. Counsel

hah

for the applicant further submits that the applicant would be fairly satisfied if a direction is issued to the concerned respondent authority to dispose of such comprehensive representation in a time bound manner.

4. Ld. Counsel for the respondents contends that the respondents have no objection if such representation is directed to be decided in accordance with law.

5. Accordingly, without entering into the merits of the matter, and, with the consent of the parties, I, hereby grant liberty to the applicant to prefer a comprehensive representation to the concerned respondent authorities within 3 weeks from the date of receipt of a copy of this order and, once so received, the competent respondent authority shall dispose of the same with a reasoned and speaking order within a period of 8 weeks thereafter. The decision should be conveyed to the applicant forthwith thereafter. If so decided, the applicant may be released benefits to which he is entitled within a further period of twelve weeks thereafter.

6. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

SP