

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00223/2016
With
MA/050/00115/2016

Date of Order: 03.07.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Subodh Kumar Lall, S/o Late Kameshwar Lal, resident of Village- Gorapatti, PO- Bihar Mahila Vidyapith (Majhaulia), Via-Laheriasarai, District- Darbhanga.

.... **Applicant.**

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, East Central Railway, Hajipur.
3. The General Manager (P), East Central Railway, Hajipur.
4. The Chief Commercial Manager, East Central Railway, Hajipur.

.... **Respondents.**

By Advocate: - Mr. S.K. Ravi

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- In this OA, the applicant has alleged that he was denied ad-hoc promotion to Senior Scale when it was due in the year 2009 because of wrongly promoting a person namely Shri J. Hembrum, who was junior to him, to the available vacancy which rightfully belong to him. He has been later promoted in the year 2012 and has thus lost the benefit of three increments. He has prayed for granting the benefit of notional increments, if it was not possible to promote him retrospectively. The

applicant has also alleged that this junior person Shri J. Hembrum was later reverted following an interim order passed by this Tribunal in OA No. 180/2009. However, the applicant was not allowed promotion in his place and therefore this injustice must be corrected.

2. The applicant also filed Miscellaneous Application No. MA/050/00115/2016 for condonation of delay which was partly decided while keeping the period of limitation open to be adjudicated at the time of final hearing.

3. The respondents have filed written statement in which they have denied the claim of the applicant. According to them, there were only two work charge vacancies of Senior Scale available in 2009 to which two persons who were senior to the applicant were promoted. Shri J. Hembrum was not promoted against these vacancies but was given promotion by North East Railway, Gorakhpur and this order was not implemented pursuant to the status quo order issued by this Tribunal in OA 180/2009. The reason behind not promoting the applicant was lack of vacancy and not because of promoting Shri J. Hembrum, which, in any case, was wrongly done and was subsequently corrected. The applicant has been later promoted on availability of vacancy and therefore his claim for promotion from a back date or grant of notional increment cannot be accepted.

4. No rejoinder was filed by the applicant.

5. We have gone through the pleadings and heard the learned counsels of both the parties. During the arguments, both the learned counsels reiterated the claims made in their respective pleadings. Since the

respondents have categorically denied availability of appropriate vacancies for promoting the applicant in the year 2009 and since it is found that no one junior to the applicant was effectively promoted to any such vacancies in the year 2009, we do not find any merit in the claim made by the applicant to get himself promoted from the year 2009. Even if, for the sake of argument, it is to be accepted that the respondents Department had tried to promote someone junior to the applicant in the year 2009, that attempt did not succeed and the applicant cannot have a right to claim promotion citing that as a reason for his retrospective promotion/grant of notional increment. The OA therefore lacks merit and is, therefore, dismissed. MA is also dismissed accordingly. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member