

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00588/15**

Reserved on: 21.05.2019
Date of Order: 23.05.2019

C O R A M

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

Prakash Rajak, S/o Sri Madhusudan Rajak, Village & PO – Sonha, PS – Sonbarsa, District- Saharsa, At present working at Rail Wheel Plant, Bela.

.... **Applicant.**

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India through the Chairman, Railway Board, New Delhi.
2. The General Manager, East Central Railway, Hajipur.
3. The General Manager, South Central Railway, Secundarabad.
4. The DRM(P), South Central Railway, Guntakal Division, Guntakal.
5. The Sr. DPO, South Central Railway, Guntakal Dovisopm, Guntakal.
6. The Chief Administrative Officer, Rail Wheel Plant, Bela Shitalpur, Saran.
7. The Sr. Personnel Officer, Raul Wheel Plant, Bela Shitalpur, Saran.
8. The Asst. Personnel Officer, Rail Wheel Plant, Bela Shitalpur, Saran.

.... **Respondents.**

By Advocate: - Mr. S.K. Griyaghey

O R D E R

Per Dinesh Sharma, A.M:- The prayer of the applicant is that the letter dated 28.01.2015 issued by Sr. DPO, Guntakal Division and letter dated 31.03.2015 issued by the same Division (at Annexure A/8 and A/9) by which the applicant has been advised to forward unconditional option form should be quashed and set aside. He has also requested for directing the respondent authorities to allow his promotion to the post of Technician Grade-I w.e.f. his batchmates/juniors as ordered vide order dated

08.08.2013 (Annexure A/3) with all consequential benefits. The case of the applicant is that he came to Rail Wheel Plant, Bela in 2010 (as Technician-II) on exercising option circulated by the Rail Wheel Plant, Bela. He later found that his batchmates as well as his juniors were promoted to the post of Technician Grade-I under restructuring in August, 2013. The applicant has been submitting representations for granting him promotion from the date as his lien was maintained at South Central Railway, but it has not been done. The applicant had filed OA/050/875/2014 which was disposed on 11.12.2014 directing DRM, South Central Railway to consider the representations of the applicant. However, following this he has been issued the above-mentioned letters asking him to submit an unconditional option to the effect whether he would continue in deputation post for the rest of the term or seeks to revert back to parent cadre on consideration of his case for promotion. The applicant has alleged that this is putting him in a disadvantageous position since he came to RWP, Bela which was a new establishment where all the employees had come by exercising option. Such discriminatory treatment only for him is not maintainable.

2. The respondents have stated in their written statement that the OA is not maintainable being barred by limitation and suffering from mis-joinder and non-joinder of parties. They have alleged that the applicant has been claiming higher grade from his parent department on the basis of cadre restructuring which took place in the Parent Department. Since the applicant has chosen not to give answer to the question about whether he would revert back to the parent cadre the Assistant Personnel officer, RWP

had sent attested copies of his service record to the South-Central Railway for grant of seniority/restructuring benefit to the applicant.

3. During the pendency of this application the applicant has been granted promotion as Technician Grade- I at Rail Wheel Plant, Bela and he has filed a rejoinder, on 05.03.2019, in which he has annexed a copy of order dated 31.12.2018 by which promotion has been granted to him w.e.f. 27.06.2017. The order states that the promotion has been done on the basis of screening for promotion held on 28.12.2018 and it has been made w.e.f. a date mentioned against the person promoted against cadre restructuring as well as existing vacancy.

4. The learned counsel for the applicant now wants to restrict his prayer to only para 8(b) of the OA where he had requested promotion w.e.f. the promotion of his batchmates in South East Central Railway (Annexure A/3).

5. After going through the pleadings and hearing the arguments of the learned counsels of both the parties, it is clear that the applicant is not pressing for his first prayer since he has reconciled himself to remain permanently absorbed at RWP, Bela and thus his claim to get benefit of restructuring done at his parent division also becomes weak. If he has any grievance against the effective date of promotion mentioned in the promotion order issued on 31.12.2018 it would apparently be a new cause of action. The claims made in the rejoinder will certainly affect his seniority vis-à-vis other employees who have not been made parties in this OA. Therefore, his request for changing the date of effect of his promotion

which would amount to changing his seniority vis-à-vis other persons, who are not made parties to this OA, cannot be entertained at this stage. The OA is, therefore, not allowed. Needless to say, the applicant would be free to pursue action before appropriate authorities if he has any grievance against the order of promotion dated 31.12.2018. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member