

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA



O.A. No. 350/00803/2013.

Hon'ble Dr (Ms) Nandita Chatterjee, Administrative Member

Hon'ble Mr Swarup Kumar Mishra, Judicial Member

Sri Pratap Kumar Mahapatra, S/o-Late G.Mahapatra, aged about 46 years, working as Technician-II, under SSE/ELS-12, residing at Street No. 40, Quarter No. 30/13, dist. Burdwan, PIN-713331.

.....Applicant

Vrs.

- 1) Union of India through the General Manager, Chittaranjan Loco Motive Works, Dist. Burdwan, 713301.
- 2) The Chief Personnel Officer, Chittaranjan Loco Motive Works, Dist. Burdwan, 713301.
- 3) The Senior Personnel Officer, Chittaranjan Loco Motive Works, Dist. Burdwan, 713301.
- 4) Pranaya Kumar Raha, J.E., working under S.S.E./Planning, T.No. -97/003, CLW/CRJ-713301.
- 5) D.C.Mondal, J.E., working under S.S.E./ELB-18, T.No. -18/004, CLW/CRJ.
- 6) Soumen Nandy, J.E., working under S.S.E./DLS-26, T.No. - , CLW/CRJ-713301.
- 7) Debasis Chakraborty, J.E., working under S.S.E./Planning, T.No. -97/016, CLW/CRJ-713301.

.....Respondents

For the Applicant: Mr. A.Chakraborty, Counsel

For the Respondents: Ms. C.Mukherjee, Counsel

Date of Hearing : 18.11.2019

Date of Order : 19.11.2019

19.11.19


ORDER**MR. SWARUP KUMAR MISHRA, MEMBER(J)**

The applicant has filed this O.A seeking the following reliefs :

- a) Fourth panel dated 30.06.2010 cannot be tenable in the eye of law as marks towards record of service was allotted by following Railway Board Circular dated 22.02.2006 and also not following 219(g) of IREM.
- b) An order do issue directing the respondents to recast the panel taking 15 marks towards the record of service."

2. Briefly the facts of the case is that the as per Notification dated 28.10.2003 (Annexure A/1) applications were invited from the eligible Skilled/High Skilled/Mistries of CLW to form a panel for appointment to the post of Apprentice Mechanics Inter Stage. Although the applicant was declared suitable in the written test, his name did not find place in the final panel for which he was not promoted. The said selection was challenged by the applicant and others in O.A. 336 of 2005 in which a status quo order was passed. Pursuant to the order passed in the said O.A on 30.08.2006, a fresh panel was published which was also challenged in O.A. 91 of 2008. The said O.A was also disposed of by this Tribunal on 31.07.2009 directing the respondents to prepare the panel afresh following the revised Railway Board's order dated 19.06.2009 i.e. strictly according to merit based on aggregate marks on the professional ability, records of service and marks secured in the written examination. Accordingly a panel was published on 06.03.2010, where the name of the applicant was not figured. The grievance of the applicant is that although he has secured higher marks than Sri Sanjoy Srivastava he was not placed in the panel for promotion to the post of Apprentice Mechanic Inter Stage (Mechanic). Being aggrieved the

19-11-19



applicant moved this Tribunal in O.A.372/2010, which was dismissed on the ground of non-joinder of parties as well as not challenging the panel. The order was challenged in WPCT 361 of 2012. While admitting the WPCT, the Hon'ble High Court clarified that pendency of the WPCT shall not prevent the petitioner from questioning the Fourth Panel according to law. The Fourth Panel was published on 30.06.2010. The main contention of the applicant is that respondents have admitted that 30 marks were allotted in terms of Railway Board's Circular dated 22.03.2006 and para 219(g) of IREM is applicable in the present case. However, the applicant claims that para 219(g) of IREM was not in existence at the time of issuance of Notification and holding the selection.

3. The respondents have filed a written statement denying and disputing the claim of the applicant. It is stated in the written statement that the fresh panel was drawn in strict compliance of the order passed by the Hon'ble Tribunal and as per applicable rules/circular of Railways holding the field.

4. Heard learned counsel for both sides.. Perused the materials placed on record.

5. It was submitted by learned counsel for the applicant that since this is a selection post therefore, on the basis of the judgment given by Hon'ble Supreme Court in M. Ramjayaram Vs. General Manager, South Eastern Railway in CA No.5085/1995, decided on 15.03.1996, is applicable, which is a settled position of law. The only basis for promotion was the merit in the examination in question and

15-11-19

awarding the marks on different heads including marks and service records was not permissible by the respondents. This Tribunal is unable to accept the submission made by the learned counsel for the respondents that RBE No. 113/2009 is not applicable since the recruitment process had started much earlier to the issue of said circular. The date on which the said circular was issued is important. Since it was obligatory on the part of the respondents to take immediate steps to follow the decision of the Hon'ble Supreme Court as quoted earlier which was delivered on 15.03.1996. Our said view is also supported by the decision of the CAT Hyderabad Bench in O.A.1152 of 2012 disposed of on 28.06.2019. The facts and circumstances of the said case is squarely applicable in the present case.

6. The applicant should not be made to suffer due to the inaction on the part of the respondents by not taking steps and sitting over the matter for a period of about 14 years and then rose from a deep slumber by issuing the Circular dated 22.03.2006.

7. Accordingly, we set aside the Fourth Panel dated 30.06.2010 and direct the respondent to redraw the panel as per law governing the field.

There shall be no order as to costs.


(Swarup Kumar Mishra)
Judicial Member


(Dr Nandita Chatterjee)
Administrative Member

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