

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00216/16

Date of Order: 21.10.2019

C O R A M
HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Chhabbu Yadav, S/o Late Devi, resident of Village- Khari, PO- Mahsona, PS & Distt.- Lakhisarai (Bihar), at present working as Sn. Goods Guard under the Station Manager, Eastern Railway, Sahebganj,

.... **Applicant.**

By Advocate: - Mr. A.N. Jha

-Versus-

1. The Union of India through the General Manager, Eastern Railway, Fairlie Place, 700001(W.B.).
2. The General Manager (Personnel), Eastern Railway, Fairlie Place, 17 Netaji Subhash Road, Kolkata- 700001 (W.B.).
3. The Divisional Railway Manager, Eastern Railway, Malda Division, Malda Town (W.B.).
4. The Senior Divisional Personnel Officer, Eastern Railway, Malda Division, Malda Town (W.B.).

.... **Respondents.**

By Advocate: - Mr. S.K. Ravi

O R D E R

Per Dinesh Sharma, A.M:- The prayer of the applicant is for quashing and setting aside the reasoned and speaking order dated 26.03.2015 issued by the Sr. DPC, Eastern Railway, Malda rejecting the claim of the applicant to rectify his seniority position and to promote him with effect from 11.11.2014 to the post of Sr. Passenger Guard (from the date his juniors were promoted vide Annexure A/5). The applicant had approached this Tribunal by OA/050/00085/2015 stating that his representation before Sr. Personnel Officer, which was forwarded on 30.08.2014 (Annexure A/3),

followed by reminder dated 29.10.2014, was pending before the respondents and in the meanwhile, promotion orders had been issued wherein two persons, namely, Kapil Deo Das and Shri S.D. Pandit, who were below the applicant in the original seniority list, had been promoted. This OA was disposed of at the admission stage itself, without expressing any opinion on the merit of the OA, with a direction to the respondent no. 4 (Sr. Divisional Personnel Officer, Eastern Railway, Malda Division) therein, to dispose of the pending representation (Annexure A/3 of the applicant) by a reasoned and speaking order. The respondent no. 4 has issued an order dated 25.03.2015, in obedience to that order by this Tribunal in which the claim of the applicant has been wrongly rejected, and hence this O.A.

2. The respondents have denied the claim of the applicant. They have stated that the speaking order dated 26.03.2015, issued in compliance with this Tribunal's decision in OA/050/00085/2015, explains the reasons why the applicant could not be promoted, whereas Shri K.D. Das and Shri S.D. Pandit were promoted. They have also stated that when the provisional seniority list of Sr. Goods Guard dated 11.08.2014 was published inviting objections, no objection was raised by the applicant within 30 days of such publication. Both Shri K.D. Das and Shri S.D. Pandit, though junior to the applicant at the time when they were Goods Guards, were promoted to the post of Sr. Goods Guard w.e.f. 27.05.2011. The applicant got this promotion w.e.f. 01.11.2013. Thus, these two persons became senior to the applicant. Since the speaking order is as per the extant Railway rules and regulations, the OA deserves to be dismissed.

3. No rejoinder has been filed.
4. We have gone through the pleadings and heard the arguments of learned counsels of both the parties. We find that the speaking order sufficiently explains why the case of the applicant was not considered for promotion. Those who were junior to him (when they were Goods Guards) were promoted due to their earlier promotion to the rank of Senior Goods Guards. The applicant has himself accepted that he was not promoted as Senior Goods Guard in the year 2011 on not being found suitable. The only argument which can be made by the applicant is by way of claiming similarity of treatment between him and "Guards from sl. No. 1 to 5 placed before me in the list" (As mentioned in his representation at Annexure A/3). We find that the judgments of this Tribunal quoted in Annexure A/3 relate to OAs (OA Nos. 42, 331 and 358 of 2005 decided on 14.12.2012) filed in the year 2005. The applicant, by his own admission, had failed in the selection process in the year 2011. Thus, any averment of similarity between his case and of those quoted in his representation is questionable. Since the speaking order passed by the concerned respondent apparently explains all the reasons and since the applicant has not clearly explained how he has been dissimilarly treated from other similarly placed persons, we do not find any merit in this OA and it is dismissed accordingly. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member

