

Pilla Sitaram Patrudu and Others

Vs

Union of India and Others

SLPs (C) Nos. 8887-88 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

25.03.1996

ORDER

1. Delay condoned.

2. The 5th respondent, K.P. Ramanandan, was selected by direct recruitment in the year 1977 for selection as Assistant Executive Engineer. All the direct recruits except the respondent were appointed in the year 1978. It was admitted that when he had filed OP No. 7226 of 1985 in the CAT, Ernakulam Bench, by order dated 31-1-1990 it was held that his appointment was delayed due to laches on the part of the Railway Administration. After his appointment in the year 1981, within two years he passed his test. When his case was not considered for promotion as Executive Engineer, he filed the OA. The Tribunal without deciding the inter se seniority in the cadre of Assistant Executive Engineers had directed the Railway Administration to consider his case for promotion as Executive Engineer for the years 1984, 1985 and 1986 and if found fit for promotion in any of the posts, to give him promotion for that year and to fix seniority among Executive Engineers accordingly. Pursuant thereto, the respondent was considered and promoted as Executive Engineer. After the above order came to be made, the Railway Administration did not carry the matter in appeal to this Court. Some of the persons seemingly aggrieved against the direction admittedly filed a review petition which was also dismissed and that order became final. The petitioners thereafter challenged the self-same order by filing separate OA and in the impugned order of the Tribunal dated 19-10-1995 the Tribunal has confirmed its earlier order. Thus this special leave petition.

3. It is contended by the learned counsel for the petitioners that since the inter se seniority as Assistant Engineers was left open in the order, the directions given by the Tribunal to consider the case as Executive Engineer and determine his seniority on the basis of promotion, is not valid in law. We find no force in the contention. Once he is found to be eligible according to the rules, then his seniority is required to be determined as per the procedure prescribed in the rules in vogue. It is further contended that the fifth respondent was not qualified since he had not completed 8 years of required service. The Tribunal has recorded a finding that two years' period is relaxable in the case of the reserved candidates. The inter se seniority as Assistant Executive Engineer is required to be determined; he joined service in 1981 and, therefore, he did not have the requisite service. We find no force in the contention. Since he was selected by direct recruitment, he is entitled to be appointed according to rule. His appointment was delayed for no fault of his and he came to be appointed in 1981, he is, therefore, entitled to the ranking given in the select list and appointment made accordingly. Under these circumstances, we do not find any illegality in the order.

4. The special leave petition is accordingly dismissed.