

(2010) 01 DEL CK 0120

In the Delhi High Court

Case No : Writ Petition (C.) No. 11438 of 2009

Union of India (UOI) and Others

APPELLANT

Vs

Mohd. Ilias

RESPONDENT

Date of Decision : 21-01-2010

Acts Referred:

Citation : (2010) 01 DEL CK 0120

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : Kumar Rajesh Singh, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The Union of India through the General Manager North-Western Railway has impugned the order dated 21st November, 2008 in OA No. 179 of 2008 titled Mohd. Ilyas v. Union of India and Ors. whereby the petitioners have been directed to hold a review selection for the respondent for the post of AEN and consider his claim for promotion from the date his immediate juniors have been promoted.

2. The respondent was functioning in construction organization and he was placed in the provisional panel. Later on a letter dated 19th June, 1997 was issued contemplating that the promotion and appropriate order for promotion will be issued after resumption of the division. Another letter on 24th October, 1997 was issued by Northern Railways reflecting that the respondent was posted at construction organization and the Bikaner Division was intimated to intimate the respondent about his promotion. The respondent thereafter was promoted in the grade of Rs. 2000-3200 (RPS) with effect from 19th June, 1997.

3. Though the respondent was promoted on 19th June, 1997, however, later on another eligibility list was prepared where the date of promotion of the respondent was shown as 24th October, 1997 which was challenged by the respondent on the ground that his promotion ought to be from 19th June, 1997

as by considering his promotion from 24th October, 1997 he has been ousted from the zone of consideration and consequently his right for participation in the selection process had been infringed without any reasonable basis.

4. The plea of the respondent was contested by the petitioners contending inter alia that the order passed on 19th June, 1997 was not a promotion order but the respondent was placed in provisional panel only and in fact the promotion of the respondent was effected by order dated 24th October, 1997. It was contended that therefore, the date of respondent's promotion has to be reckoned as 24th October, 1997. The date of promotion of respondent from 24th October, 1997 was also buttressed on the basis of a seniority list issued by Bikaner Division in 2001 which also stipulated the date of promotion as 24th October, 1997.

5. After considering the respective contentions of the parties, the Tribunal noted that the integrated seniority list of 2003 was issued by the petitioners where the date of promotion of the respondent has been shown as 19th June, 1997 and not 24th October, 1997. In the circumstances, it was noted that the integrated seniority list of 2003 shall override the seniority list prepared in 2001 by the Bikaner Division. Since the seniority of the respondent given in the integrated list in 2003 is from 19th June, 1997, therefore the seniority given from 24th October, 1997 was held to be incorrect. It was further held that the petitioners cannot be allowed to contend that the order passed on 19th June, 1997 was not a promotion order but the placement of the respondent in a provisional panel only.

6. Consequently, the Tribunal has held that if the seniority of the respondent is to be reckoned from 19th June, 1997 and not from 24th October, 1997, petitioners shall be liable to hold a review selection for the respondent for the post of AEN and to consider his claim for promotion from the date his immediate juniors have been promoted.

7. Learned Counsel for the petitioners cannot dispute that the respondent is entitled for promotion from the date his immediate juniors have been promoted. This also cannot be disputed by them that integrated seniority list of 2003 shows the date of promotion of the respondent as 19th June, 1997.

8. In the circumstances, there are no grounds to interfere with the order of the Tribunal. There is no illegality or such irregularity which will require any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The writ petition in the facts and circumstances is without any merit and it is, therefore, dismissed.