

Court No. - 33

Case :- WRIT - A No. - 69733 of 2010

Petitioner :- Union Of India Thru G. M. North Central Railway And Another

Respondent :- Naim Javed Khan And Another

Counsel for Petitioner :- A. K. Roy,A.K.Gaur

Counsel for Respondent :- S.M.Ali

Hon'ble Manoj Misra,J.

Hon'ble Ved Prakash Vaish,J.

Heard learned counsel for the petitioner and have perused the record.

The petitioners have challenged the order dated 7.10.2010 passed by Central Administrative Tribunal, Allahabad in Original Application No. 966 of 2017.

A perusal of the record would reveal that the first respondent was working as Senior Signal Maintainer Grade Rs. 5000-8000 and had qualified in the written examination for the post of Data Entry Operator (D.E.O.), but could not succeed in the Viva Voce test. On 24.2.2006 D.R.M. (P) Jhansi, issued a letter asking for option of the first-respondent to seek entry in I.T. Cadre as D.E.O. in the Scale of Rs. 4500-7000/-. The first-respondent accepted the offer by submitting his consent. As no decision was taken, the first-respondent filed O.A. No. 1359 of 2006 which was disposed of by issuing direction upon the respondents therein to consider the case of the applicant and take a decision within specific time. Pursuant to the order passed in O.A. No. 1359 of 2006, the department rejected the application of the first-respondent on the ground that the first-respondent was posted in higher Grade of Rs. 5000-8000/- and, therefore, he could not be posted as D.E.O. (I.T. Cadre) which carried a lower Pay-Scale of Rs. 4500-7000/-. Assailing the decision of the department, O.A. No. 966 of 2007 was filed.

The Tribunal, on the basis of the reply given by the respondents (the petitioners herein), came to the conclusion that as per own case by the respondents, now, the revised Grade of D.E.O. (I.T. Cadre) was Rs. 5000-8000/- and, therefore, the ground on which the option exercised by the first-respondent was rejected, was no longer in existence. Accordingly, the application was allowed and a direction was issued to the Department to induct the first-respondent in the I.T. Cadre (D.E.O.) in the Pay-Scale of Rs. 5000-8000/- subject to the condition that the first-respondent would be junior to all the existing D.E.O. and the

induction would be prospective as and when vacancy in the post of D.E.O. arises.

Although the petitioners have challenged the order passed by the Tribunal, but they could not demonstrate, as to how the finding returned by the Tribunal was perverse, more so, when the same was based on the own stand taken by the department in their reply that Scale of D.E.O. (I.T. Cadre) was now Rs. 5000-8000/- and, therefore, was comparable to the Scale in which the first-respondent was posted.

Under the circumstances, when the Department had itself given an option to the first-respondent to seek entry in I.T. Cadre as D.E.O. and that option was accepted by the first-respondent, the view taken by the Tribunal cannot be faulted, particularly, when the reason not to accept the option was found no longer in existence consequent to revision of pay scale.

The petition is dismissed.

Order Date :- 13.9.2018

Ravi Kant