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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8022/2023 & CM APPL. 30850/2023**

UNION OF INDIA, MINISTRY OF RAILWAY.....Petitioner
Through: Mr. T. P. Singh, SPC.

versus

GANGA BALRespondent
Through: Mr. Premchand and Mr. T.N.
Tripathi, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **25.02.2026**

1. By the present petition, the Petitioner has challenged the order dated 11.05.2022 (hereafter '**impugned order**') passed in O.A. 1055/2022 whereby the learned Central Administrative Tribunal, Principal Bench allowed the OA filed by the Respondent and directed that the Respondent be deemed to be promoted as Sr. Tech (MCM)/Wireman along with those promoted *vide* order dated 18.03.2019 with notional pay and other consequential benefits.

2. The Petitioner has also challenged the order dated 15.03.2023 passed in R.A. No. 79/2022 whereby the Review Application preferred against the above order also came to be dismissed.

3. The relevant facts germane to the adjudication of the present matter are succinctly put forth as follows:

3.1. The Respondent was appointed as a Khalasi on 30.07.1988 after which he was promoted from time to time. In December 2006, the Respondent was promoted as Tech.III/Wireman. Thereafter, predicated upon the available records, suitability to fill up 77 posts of Sr. Tech (MCM)/Wireman in Electrical Department in Grade Pay



(Level 6) was conducted on 07.03.2019. Consequently, on the strength of the same, a provisional panel of Sr. Tech (MCM)/Wireman was issued on 18.03.2019 and the Respondent was placed at Serial No. 75 out of 77 candidates against vacancies (Existing – 61; anticipated – 16) for the period between 01.01.2019 – 31.12.2019.

3.2. Before the Respondent could be promoted against any anticipated vacancy, he retired from the post of Wireman – I on attaining superannuation on 31.07.2019. The Respondent thereafter by letter dated 23.01.2021 placed a grievance before the concerned authority – Chairman Railway Board, regarding grant of promotional benefits and pension to him.

3.3. By response dated 29.01.2021, the Respondent was informed by the Petitioner that by the time the vacancy arose in the month of November/December 2019, he had already retired from services, that is, on 31.07.2019. Aggrieved by the same, the Respondent preferred O.A. 1055/2022 against the order dated 29.01.2021 passed by the Petitioner.

3.4. As noted above, by the impugned order, the OA filed by the Respondent was allowed and it was directed that the Respondent be deemed to be promoted as Sr. Tech (MCM)/Wireman along with those promoted by order dated 18.03.2019 and it was directed that the pay of the Respondent shall be notionally fixed and that he would be entitled to all the consequential benefits. While doing so, the learned Tribunal noted that the Respondent was deprived of his promotion on account of the delay occurred in processing his case by the Petitioner.

3.5. The Review Application filed against the impugned order was also dismissed. The same led to the filing of the present writ petition.

4. The learned counsel representing the Petitioner has



emphatically canvassed that the learned Tribunal erred in noting that the Respondent could not be promoted on account of the delay caused in processing the case of the Respondent by the Petitioner authorities. It is submitted that the Respondent stood at Serial No. 75 in the provisional panel list against the anticipated vacancy.

5. It is submitted that by the time the anticipated vacancy arose in the month of November/December 2019, the Respondent had already retired from service on 31.07.2019. It has consequently been argued that no procedural or administrative delay was caused in processing the case of the Respondent which may have led to prejudice being caused to him.

6. *Per contra*, it is contested on behalf of the Respondent that the learned Tribunal rightly allowed the OA preferred by the Respondent. It is argued that the Respondent was not promoted after the year 2006. It is further contended that many persons who were promoted did not join and it was thus for the Petitioner to have considered the case of the Respondent for promotion.

7. This Court has carefully traversed through the rival contentions advanced by the counsel representing the parties. From a perusal of the impugned order, it transpires that the OA filed by the Respondent was allowed by the learned Tribunal noting that the Respondent was deprived of his promotion on account of the delay occurred in processing his case by the Petitioner.

8. In that regard, it is pertinent to note that on 18.03.2019, a provisional panel of Sr. Tech (MCM)/Wireman in Electrical Department in Pay Band – II, Grade Pay (Level 6) was issued based on suitability conducted on 07.03.2019. In the said provisional panel, the Respondent was placed at Serial No. 75 against any anticipated



vacancy. The Respondent however, before any anticipated vacancy could arise, retired on attaining superannuation on 31.07.2019.

9. The learned counsel representing the Petitioner has drawn the attention of this Court to the table encapsulated in the writ petition relating to the list of promotion orders issued as per the provisional panel released on 18.03.2019 which is reproduced as follows:

S. No. as per MCM/WM select list	Employees promoted	Promotion Letter no. & date
S.No. 01 to 42 S.no. 44 to 64	63	No.293-E/579/MCM/ WM/P-3 dt. 25.03.2019 & 09.04.2019
S.no. 43, 65 to 67	04	No.293-E/579/MCM/ WM/P-3 dt. 17.05.2019
S.no. 68	01	No.293-E/579/MCM/ WM/P-3 dt. 17.07.2019
S.no. 69 to 70	02	No.293-E/579/MCM/ WM/P-3 dt. 05.08.2019
S.no. 71 to 73	03	No.293-E/579/MCM/ WM/P-3 dt. 31.08.2019
S.no.74 and Sh. Ram Mehar Singh s/o Sh. Kanahiya Lal who was outstation on duty on administrative ground during suitability.	02	No.293-E/579/MCM/ WM/P-3 dt. 27.11.2019

10. A perusal of the record, when thoroughly traversed, manifests the position that the Respondent regrettably retired on attaining superannuation on 31.07.2019 before any anticipated vacancy could arise during the Respondent's service. What is equally material is the fact that no person who stood junior to the Respondent was promoted in supersession of the Respondent's claim. No averment has been made by the Respondent to highlight that any arbitrariness or *mala fide* resulted in prejudice to the Respondent. While the suitability list was issued on 18.03.2019, the anticipated vacancies were required to



be filled as and when any post fell vacant. The order dated 29.01.2021 passed by the Petitioner authorities which was challenged by the Respondent in O.A. 1055/2022 makes it manifest that when the vacancy arose in November/December, 2019, the Respondent had already retired. The present case is thus not one where the Respondent was denied to be promoted but one where the occasion to promote did not come into existence. The Petitioner can thus not be faulted for any delay since the occasion to promote did not arise.

11. The Respondent's disappointment while understandable and regrettable cannot act as a substitute for a legal right. While it is not in doubt that the Courts may grant notional or deemed promotion, however, grant of such relief ought to be anchored in demonstrable illegality.

12. Consequently, in the absence of any anticipated post falling vacant prior to the Respondent's retirement, or in the dearth of supersession by a junior, no enforceable right, be it actual or notional, to seek promotion, in the opinion of this Court, was ever vested in the Respondent. This Court thus does not find itself in agreement with the view taken by the learned Tribunal that the Respondent was deprived of his promotion on account of delay occurring in processing his case by the Petitioner.

13. In view of the aforesaid, the present writ petition is allowed and the impugned order is set aside. Pending application also stands disposed of.

ANIL KSHETARPAL, J

AMIT MAHAJAN, J

FEBRUARY 25, 2026/ 'KDK'