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Central Administrative Tribunal, Principal Bench

Original Application No.2010 of 2002

M.A.No.1644/2002

New Delhi, this the 1st day of August, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member (A)

1. Ahmad Shakeel
Junior Account Assistant
Diesel Locomotive Works
Varanasi, Uttar Pradesh

2. Farooq Sagheer
Junior Account Assistant
Diesel Locomotive Works
Varanasi, Uttar Pradesh

3. Shaili Goel
Junior Account Assistant
Diesel Locomotive Works
Varanasi, Uttar Pradesh

.... Applicants

(By Advocate: Shri Amit Kumar)

Versus

1. The Secretary (Accounts)
Ministry of Railway
Railway Board, Rail Bhawan
New Delhi-1

2. General Manager
Diesel Locomotive Works
Varanasi, Uttar Pradesh

3. Financial Adviser and
Chief Accounts Officer,
Diesel Locomotive Works
Varanasi, Uttar Pradesh

4. Rewati Raman Singh
Junior Account Assistant,
Financial Adviser and
Chief Accounts Office
Diesel Locomotive Works
Varanasi, Uttar Pradesh

5. Umair Asir
Junior Account Assistant,
Financial Adviser and
Chief Accounts Office
Diesel Locomotive Works
Varanasi, Uttar Pradesh

6. Naresh Pal Singh
Junior Account Assistant,
Financial Adviser and
Chief Accounts Office
Diesel Locomotive Works
Varanasi, Uttar Pradesh

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7. P. S. Gidhi

Junior Account Assistant,
Financial Adviser and
Chief Accounts Office
Diesel Locomotive Works
Varanasi, Uttar Pradesh

8. Shilajet Chakravorty,
Junior Account Assistant,
Financial Adviser and
Chief Accounts Office
Diesel Locomotive Works
Varanasi, Uttar Pradesh

9. Ghansyam Dubey
Junior Account Assistant,
Financial Adviser and
Chief Accounts Office
Diesel Locomotive Works
Varanasi, Uttar Pradesh

10. Rajeev Kumar Ranjan
Junior Account Assistant,
Financial Adviser and
Chief Accounts Office
Diesel Locomotive Works
Varanasi, Uttar Pradesh

.... Respondents

O R D E R (ORAL)

By Mr. S. A. T. Rizvi, Member (A)

M.A.No.1644/2002 for joining together in a single OA, is allowed.

2. Applicants, three in number, have been promoted to the post of Junior Accounts Assistant (JAA) from the post of Accounts Clerk. The cadre of JAA consists of the promotees as the applicants herein as well as direct recruits. In fact, 80% posts are earmarked for direct recruits. A provisional inter-se-seniority list of JAAs was issued by the respondents on 26.3.99 and the same was made final on 31.3.2000. The applicants who are promotee JAAs were given higher seniority in the aforesaid final seniority list. A long time thereafter, ^{and, unnoticed by the applicants, &} the respondents have issued another seniority list on 17.10.2001,

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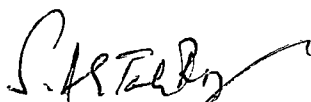
² ~~ostensibly~~ ² prepared in accordance with the Railway Board's letter dated 8.3.96 (Annexure P-8). In this list, the applicants have been shown as junior to the directly recruited JAAs who were their juniors in the aforesaid list of 31.3.2000.


3. The learned counsel appearing on behalf of the applicants submits that the aforesaid seniority list of 31.3.2000 was prepared ² ~~ostensibly~~ ² in accordance with the provisions of rules 302 and 318 of the IREM Volume-I and in consonance with the judgements of the Supreme Court in Smt. Anuradha Mukherjee vs. Union of India, JT 1996 (3) SC 875 and Swapan Kumar Pal & ors. vs. Samitabhar Chakraborty and ors., 2001 (3) S.L.J. 1, the essence of which is that a person who is borne on the cadre first, will necessarily rank higher in seniority. Going by the said principle, the applicants were rightly shown as seniors in the aforesaid seniority list of 31.3.2000. In the circumstances, the seniority list of 17.10.2001 is illegal and deserves to be quashed and set aside. Aggrieved by the aforesaid seniority list of 17.10.2001, the applicants have filed representations on 8.1.2002 and 19.6.2002 (Annexure P-9 and P-10). The respondents are yet to react in the matter and instead, they have engaged themselves in making promotions of JAAs to the next higher post of Accounts Assistant on the basis of the impugned seniority list of 17.10.2001.

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4. Having regard to the submissions made by the learned counsel, we find that interests of justice will be

duly met by disposing of the present OA at this very stage even without issuing notices with a direction to the respondents to consider the aforesaid representations and to pass a reasoned and a speaking order thereon expeditiously and in any event within a period of three months from the date of receipt of a copy of this order. We direct accordingly. We further direct that until order as above have been passed, the respondents will refrain ~~from making~~ from making further promotions based on the aforesaid impugned seniority list of 17.10.2001.

Issue DASTI.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

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