

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD**

Original Application No.39/2014

Date of Order : 30.10.2019

Between :

1. Benudar Sahoo,
S/o Krutibas Sahoo, aged 26 years,
Occ : Assistant Loco Pilot,
O/o The Chief Crew Controller,
Kacheguda, South Central Railway.
2. Shiv Kumar Singh,
S/o Vikrama Singh, aged 26 years,
Occ : Assistant Loco Pilot,
O/o The Chief Crew Controller,
Kacheguda, South Central Railway.
3. Rakesh Kumar,
S/o Umeshwar Ray, aged 24 years,
Occ : : Assistant Loco Pilot,
O/o The Chief Crew Controller,
Kacheguda, South Central Railway.
4. K.Venkatesulu,
S/o K.Sadappa, aged 32 years,
Occ : Assistant Loco Pilot,
O/o The Chief Crew Controller,
Kacheguda, South Central Railway.
5. Dhanraj Gurjer,
S/o Ramnivas Gurjer, aged 27 years,
Occ : Assistant Loco Pilot,
O/o The Chief Crew Controller,
Kacheguda, South Central Railway.
6. Srinivas Rao Gorle,
S/o Erri Naidu, aged 28 years,
Occ : Assistant Loco Pilot,
O/o The Chief Crew Controller,
Kacheguda, South Central Railway.

... Applicants

And

1. Union of India, rep. by
The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. The Additional General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
4. The Senior Divisional Personnel Officer,
Hyderabad Division, Hyderabad Bhavan,
South Central Railway, Secunderabad.
5. The Chief Crew Controller,
Kacheguda R.S., South Central Railway,
Hyderabad.
6. Rakesh Kumar (R.C.Podar)
7. M.Vachaspati
8. Raj Kumar Meena
9. Santosh Ravi Das
10. Arvind Kumar Singh
11. Pavan Kumar
12. Santosh Kumar Tiwari
13. Naveen Kumar
14. Kripa Shankar
15. Anupam Kumar
16. Rohith Kumar
17. Vijay Sankar
18. Dhanunjaya Kumar
19. Ashok Kumar Saha
20. Deepak Kumar Kesari
21. I. Dilleswara Rao
22. Binod Kumar
23. Chotan Kumar
24. Pradeep Kumar Giri
25. Munna Kumar Singh
26. Rajesh Kumar
27. Y.V.S. Siva Kumar
28. B. Tirupati Rao

- 29.Arvind Kumar

30.Shekar Suman

31.Amit Kumar

32.Pankaj Kumar

33.Karunakar Polai

34.H.M.T.Arul Raj

35.Madana Nageswar

36.Suresh Babu Vuta

37.R.Anjaneyulu

38.dharmender Kumar Soni

39.Suraj Tamsoy

40.Pramod Kumar

41.Palina Ananda Rao

42.Radhe Shyam Pal

43.Madan Kumar

44.Manoj Kumar

45.D.Venkateswarlu

46.Surya Narayana Jena

47.Dara Venkateswarlu

48.Kundan Kumar

49.R.P.Meena

50.Rajnikant Peddi

51.Modem Srinivas

52.Yerra Srinu

53.B.Madhu

54.Dharmender

... Respondents

Counsel for the Applicants

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Mr.K.R.K.V.Prasad, Advocate

Counsel for the Respondents

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Mr.N.Srinatha Rao, S.C. for Rlys

CORAM:

Hon'ble Mr.Justice L.Narasimha Reddy

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Chairman

Hon'ble Mr. B.V.Sudhakar

...

Member (Administrative)

ORAL ORDER

{ As per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman }

It is rather unfortunate that in a gigantic organization like Railways and one of its important Zones, the South Central Railway, gross illegality, arbitrariness that too, on an important aspect like seniority, is taking place almost in a brazen manner. It is mentioned that the morale and way of functioning of the employees would be affected.

2. The Railway Recruitment Board conducted test for selecting the Assistant Loco Pilots in the year 2010. The selected candidates were subjected to different kinds of training. Under the relevant rules, the seniority has to be determined on the basis of the performance of the candidates in the examination, which is conducted at the end of the training. However, through an order dated 25.06.2012, the Divisional Railway Manager, Hyderabad Division directed that the seniority shall be determined on the basis of the aggregate of the marks secured by the candidates in the various examinations conducted by the individual Training Institutes. Added to that, the Assistant Loco Pilots, who were allotted to other divisions were permitted to come on mutual transfers and even they were assigned seniority virtually without any basis. This OA is filed challenging the action of the respondents.

3. The applicants contend that in Chapter III of Indian Railway Establishment Manual, (for short 'IERM') Vol-I a clear and definite procedure is prescribed for determination of the seniority of the candidates selected through Railway Recruitment Board and the impugned order was issued in clear violation thereof.

4. On behalf of Respondents 1 to 5, counter affidavit is filed. It is stated that the seniority was determined on the basis of the marks obtained in the respective examinations conducted at the end of each training. It is also stated that the breakup of the vacancies under various categories was maintained in accordance with the relevant rules. The various contentions raised by the applicants are denied by the respondents.

5. The Assistant Loco Pilots who were impleaded as respondents No.6 to 54. However, they have not filed any counter affidavit.

6. We heard Mr.K.R.K.V.Prasad, learned counsel for the applicants and Mr.N.Srinatha Rao, learned standing counsel for the respondents.

7. The selection of Assistant Loco Pilots is made by the Railway Recruitment Board. Whenever the selection is entrusted to a specialized agency, the seniority of the selected candidates is determined on the basis of the ranking assigned by the very agency. Since the training to the post of Assistant Loco Pilot

involved different stages issue is relegated to subsequent stage.

8. Chapter III of IREM Volume – I, is exclusively for the purpose of regulating the seniority of railway servants. Para-303 of the said Chapter is extracted hereunder :

303. The seniority of candidates recruited through the Railway Recruitment Board or by any other recruiting authority should be determined as under :

(a) Candidates who are sent for initial training to Training Schools will rank in seniority in the relevant grade in the order of merit obtained in the examination held at the end of the training period before being posted against working post. Those who join the subsequent courses and those who pass the examination in subsequent chances will rank junior to those who had passed the examination. In case, however, persons belonging to the same RRB panel are sent for initial training in batches due to administrative reasons and not because of reasons attributable to the candidates, the inter-se seniority will be regulated batch wise provided persons higher up in the panel of RRB not sent for training in the appropriate batch (as per seniority) due to administrative reasons shall be clubbed along with the candidates who took the training in the appropriate batch for the purpose of regulating the inter-se seniority provided such persons pass the examination at the end of the training in the first attempt.

(b) In the case of candidates who do not have any training in training school, the seniority should be determined on the basis of the merit order assigned by the Railway Recruitment Board or other recruiting authority.

9. From a perusal of this, it becomes very clear that whenever candidates are sent for training to various training schools, the seniority shall be decided on the basis of the merit assigned in the examination held “at the end of the training period”, before orders of posting are issued. The performance of the candidates in the individual tests is not of any relevance. What, however, becomes decisive for the purpose of deciding seniority is the performance of the individual in the comprehensive test conducted at the end of all the trainings.

10. It is just un-understandable as to how the South Central Railway has chosen not to conduct the mandatory test for an important post. Either, it is a case of gross indiscipline or a step taken to help certain candidates for obvious reasons. The damage done to the organization on account of such patent illegality is serious in nature. There cannot be any excuse for such a gross illegality. Had the applicants impleaded the concerned officers by name, we would have considered the feasibility of passing strictures, if not directing initiation of disciplinary proceedings against them, particularly when the issue is with regard to safety of public. The impact of illegality is not confined to at the present stage seniority. It will continue to have its effect in future if it is not set right. We take serious exception to patent illegality committed by the administration. As a matter of fact, the appointment of an ALP can be complete and valid only when he appears in the test conducted at the end of the training. However, the officers are not conducting such tests and the Railway Board needs to bestow its attention on this aspect.

11. We, therefore, allow the OA and set aside the impugned order dated 13.09.2013. We direct the administration of the South Central Railway to take immediate steps to conduct the examination provided for under Para 303 of Chapter III of Volume-I of IREM forthwith and to determine the seniority of all Assistant Loco Pilots of the concerned batch. The Railway Board shall also examine the feasibility of inquiring into the aspect and to ensure that such patent

illegalities should not happen in the South Central Railway or in any other zones.

There shall be no order as to costs.

(B.V.SUDHAKAR)
MEMBER(ADMN.)

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

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