

**Central Administrative Tribunal
Principal Bench**

OA No. 503/2014

New Delhi, this the 18th day of February, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Sh. PB Gautam
S/o Late Sh. Buddha Sen,
Sr. DOM(G), North Central Railway,
Agra - Applicant

(By Advocate : Ms. Meenu Mainee)

Vs.

Union of India: Through

1. Secretary,
Railway Board,
Ministry of Railways,
Rail Bhawan, New Delhi
2. General Manager,
North Central Railway,
Allahabad
3. General Manager,
Northern Railway,
Baroda House, New Delhi
4. Divisional Railway Manager,
North Central Railway,
Agra
5. Shri Mansoor Ahmed,

Dy. Chief Operating Manager (Goods)
North Central Railway,
HQ Office, Allahabad

6. Shri R.S. Pandey,
Ex. Dy. Chief Operating Manager (C)
HQ Office: North Central Railway,
Allahabad,
Resident of: 125/KZA Beniganj,
Allahabad - Respondents

(By Advocate : Shri Shailendra Tiwary)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman:

The applicant joined the Jhansi Division of Central Railway on 15.07.1975 as Traffic Apprentice. He was promoted to the post of Assistant Operation Manager (AOM) in Group 'B' on 22.12.1995. The new Railway zone of Northern Central Railway (NC Railway) was constituted and Jhansi division of the Central Railway became part of it.

2. The respondents 5 and 6 were employees of the Northern Railway and they were promoted to the post of AOM under the promotion category through order dated 02.01.2004. Since some of the divisions of the Northern Railway became part of the NC

Railway, the respondents 5 and 6 exercised option to become the employees of NC Railway. After merger, the applicant was promoted to Senior Time Scale w.e.f. 25.04.2005, whereas respondents 5 and 6 were promoted to that scale w.e.f. 27.05.2007 and 18.06.2007 retrospectively.

3. The respondents 5 and 6 filed OA No. 583/1997 before the Allahabad Bench of the Tribunal, ventilating their grievance about their seniority in Group 'C'. The OA was disposed of on 17.11.2014 by which, time when they were the employees of the Northern Railway; leaving it open to them to make a representation and directing the respondents therein to pass orders. Stating to be in compliance with the directions issued in that OA, the respondents passed an order dated 13.01.2006, antedating the promotion of the respondents 5 and 6 to the post of AOM, Group 'B'; to 23.02.1993. This was stated to be on the ground that they were in the panel for the year 1992.

4. A combined seniority list for the post of AOM, Group 'B' as on 01.01.2007, was published. While the respondents 5 and 6 were shown at SI. No.2 and 3, the applicant was shown at SI. No.12.

This OA is filed, challenging the action of the respondents in treating the applicant as junior to the respondents 5 and 6, and to declare him as senior to them, with all consequential benefits.

5. The applicant contends that his promotion to AOM, Group 'B' is almost a decade earlier to that of respondents 5 and 6, and there was absolutely no basis for the administration, in treating the respondents 5 and 6 as senior to him. Reliance is placed upon the various orders that are made part of the record.

6. On behalf of respondents 1 to 4, a counter affidavit is filed. It is stated that though respondents 5 and 6 were promoted actually in the year 2004 to the post of AOM, the date of promotion was altered in compliance with the directions issued by the Tribunal in OA 583/1997, on finding that they were in the panel of the year 1992.

7. The respondent nos. 5 and 6 filed a separate counter affidavit. It is stated that there is some dispute about the merger of Traffic stream and Control Stream in Group 'C', and the Allahabad Bench of the Tribunal decided the issue in OA No. 450/1990. It is stated

that this issue was also dealt with and the relief was accordingly granted. It is also stated that they have filed OA No. 583/1997 in this behalf and they too were granted the relief accordingly.

8. We heard Mrs. Meenu Mainee, learned counsel for the applicant, and Shri Shailender Tiwary, learned counsel for the respondents 1 to 4. Though the respondents 5 and 6 filed a counter affidavit through counsel, Shri Ashish Srivastava. He did not appear.

9. The applicant was an employee of the Central Railway, whereas the respondent nos. 5 and 6 were employees of the Northern Railway. The NC Railway was created in the year 2003 with few zones from Central Railway and few zones from Northern Railway. By the time the merger took place, the applicant, on the one hand, and the respondents, on the other hand, were holding the post of AOM. While the applicant was promoted to the post of AOM in the year 1995, the respondents 5 and 6 were promoted to that post in the year 2004.

10. The dates of promotion of the respondents 5 and 6 were changed through order dated 13.01.2006. It is stated to be in compliance with the “directions issued by the Tribunal in OA No. 583/1997”. Therefore, it becomes necessary to extract the relevant directions issued in the OA, on the one hand, and the text of the order dated 13.01.2006, on the other hand.

11. The last para 6 of the order in OA reads as under:-

“6. Since these events have happened during the pendency of the OA, it would meet the ends of justice, if the OA is disposed of with the direction that in case applicants no.1 & 2 prefer a representation for redressal of such grievances of their as has not been redressed, the Competent Authority shall look into the matter and extend all consequential benefits flowing from the judgment of the Tribunal in the case aforesaid and redetermine their seniority in Group ‘B’ case vis-à-vis their juniors and consider them for promotion to higher grade. The decision in this regard shall be taken expeditiously preferably within 03 months from the date of receipt of representation alongwith copy of this order.”

12. Except that the respondents 5 and 6 were permitted to make a representation, there was no specific direction for change of date of promotion. As a matter of fact, by the time the OA was filed, i.e., 1197, they were not promoted to the post of AOM, at all. Therefore, the seniority or the date of appointment to that post could not have

been the subject matter of that OA. No specific direction as to the fixation of seniority for whatever post was issued.

13. The order dated 13.01.2006 reads as under:-

“In compliance of directions dated 17.11.2004 delivered by Hon’ble CAT/ALO in OA No.583/97, Approval has been accorded by the Railway Board vide their letter No.E(GP)2005/2/62, dated 2.1.2006 to the interpolation of names of S/Shri Mansoor Ahmad and RS Pandeythan CHC/ALL, now AOM/ALD, who found place on panel for selection to the post of AOM against 70% quota vacancies declared vide this office letter no.752-E/67-Pt. 36/70%/AOM/EIA, dated 2.1.04 for the year 2003-2005 (combined panel), on the panel framed for selection to the post of AOM against 75% quota vacancies, for the year 1991-92, declared vide this office letter No.CPO/Selection/Optg/75%/91-92, dated 5.6.97.

Accordingly, the names of S/Sh. Mansoor Ahmad and R.S. Pandey then CHC/ALO now AOM/ALO are interpolated in the panel framed for selection to the post of AOM against 75% quota vacancies declared vide this office letter No.CPO/Selection/Optg/75%/91-92, dated 5.6.92 above the name of Sh. D.P. Kumar, SS/DEE (item No.25) and below the name of Sh. DK Shukla, TK/Plg/NDLS (item No.24) the revised panel incorporating the names of S/Sh. Mansoor Ahmad and Sh. R.S. Pandey will be now as under:-

xxx	xxx
25. Mansoor Ahmad	CHC/ALO
26. R.S. Pandey	CHC/ALO
xxx	xxx.”

The names of the respondents 5 and 6 were interpolated in panel dated 05.06.1992 at SI. Nos. 25 and 26.

14. A perusal of the order dated 13.01.2006 clearly discloses that an innocuous observation made by the Hon'ble Allahabad Bench of the Tribunal was treated as a basis for conferring the benefit of antedating the promotion to the respondents 5 and 6, almost by a decade. The important developments such as constitution of NC Railway and the interse seniority for the post of AOM in that zone, were not examined, at all, much less the notice was given to the affected party.

15. Once the applicant was promoted to the post of AOM as well as the Senior Time Scale much ahead of the respondents 5 and 6, there was absolutely no basis to treat him as junior to them, that too without issuing a notice.

16. We, therefore, allow the OA and direct that the respondent nos. 5 and 6 shall be treated as junior to the applicant in all aspects. The promotion, if any subsequent to the stage of a Senior Time Scale, shall be on the basis that the applicant is senior to respondent nos. 5 and 6, but he shall not be entitled to be extended any financial benefits in the form of arrears. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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