

17

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1231 of 2001

New Delhi, this the 20th day of May, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Shri Mohinder Sain aged about 46 years
S/o Shri Uttam Chand
R/o 137D/8, Sector-6, Rohini,
New Delhi.

-APPLICANT

(By Advocate: Shri Surinder Singh)

Versus

1. Union of India through
The General Manager,
Northern Railway Headquarters,
Baroda House,
New Delhi.
2. The Deputy Chief Bridge Engineer,
Northern Railway HQ,
Baroda House,
New Delhi.
3. The Deputy Chief Engineer (Bridge Line)
Lajpat Nager-I,
New Delhi-110 024.

-RESPONDENTS

(By Advocate: Shri Rajinder Khattar)

O R D E R (OPAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant has filed this OA seeking the following reliefs:-

(i) Direct respondents to assign him proper seniority and count his ad hoc service for seniority.

(ii) Further direct respondents to award promotion to the applicant when his juniors have been promoted.

2. The facts in brief as alleged by the applicant are that he joined the Railway Service on 31.1.1979 and



had become Motor Driver Grade-III w.e.f. 17.1.1981 on ad hoc basis and had completed more than 21 years of service as on date whereas his juniors S/Shri Ramesh Chand and Karan Singh have stolen march over him and had been promoted as Motor Driver Grade-II before him so he has prayed in this OA that the same be allowed and the respondents be directed to promote him from the date his juniors had been promoted.

3. The respondents are contesting the OA. The claim of the respondents is that the applicant was initially appointed as Khallasi purely on temporary/casual labour basis w.e.f. 3.1.1979 and thereafter he was promoted as Motor Driver on ad hoc basis with effect from 12.3.81. Thereafter the applicant was screened along with other staff for regular vacancy of Group 'D' and was regularised by the administration in the year 1989 as per the screening held in 1989, Annexure R-1. The applicant passed the necessary trade test for the post of Motor Driver on 6.1.1999 and he was assigned seniority w.e.f. 24.3.99 so it is stated that the OA is without any merits and the same should be dismissed.

4. We have heard the learned counsel for the parties and gone through the records of the case.

5. The main plea of the counsel for the applicant is that he has been working as driver for the last 22 years, i.e., since the year 1981 and he could never imagine that his juniors have stolen march over him. We may mention that the contention as raised by the learned counsel for the applicant has no merits because the




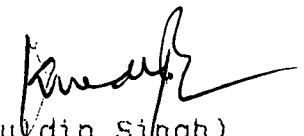
.3.

applicant was regularised as Group 'D' in the year 1989 and at that time also he had been working as Motor Driver but as alleged by him he had not raised any murmur why he was regularised as Group 'D' and not as Motor Driver so in a way he accepted for being regularised as Group 'D' Vide Annexure R-I. The applicant did not object when the respondents were appointing Motor Drivers after taking the trade test earlier than the applicant.

6. It is an admitted case of the applicant himself that he had taken trade test on 6.1.99 for the first time and was unable to show that there is any provision in the Recruitment Rules that Motor Drivers can be appointed without trade test. Accordingly if persons are appointed as Motor Drivers without following the Recruitment Rules that will not confer any right on them to be appointed in the cadre of motor drivers because it would be contrary to the Recruitment Rules because the Recruitment Rules specify that a trade tested person can be appointed as Motor Driver. Since the applicant had undergone the trade test only on 6.1.99, so in our view he has been rightly assigned the seniority by the department.

7. In view of the above, OA has no merits and the same is dismissed. No costs.


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


(Kuldeep Singh)
Member (J)

Rakesh