

Central Administrative Tribunal: Principal Bench

O.A. No. 2206/2001

New Delhi this the 23rd day of September, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

1. Shri Subhash Chander S/o Shri Tek Chand,
R/o H.No. 774/B-2, Pardhavan Mohalla,
Rohtak.

2. Sunil Kumar
S/o Shri Sadi Lal,
R/o H.No. 8/16, Janki Pura,
Gohana Distt. Sonipat.

-Applicants

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India the General Manager,
Northern Railway, Baroda House, New Delhi.

2. The Divisional Railway Manager,
Northern Railway, Delhi Division,
Near New Delhi Railway Station,
New Delhi.

3. The Divisional Personnel Officer,
DRM, Office Northern Railway,
Baroda House, New Delhi.

4. Shri Avinashi Lal S/o Shri Mani Ram,
working as Sr.Clerk,
Under IOW, N.Rly.Station, Rohtak.

-Respondents

(By Advocate: Shri D.S. Jagotra)

ORDER (Oral)

Smt. Lakshmi Swaminathan, Vice-Chairman (J)

This application has been filed by two applicants against the action and orders issued by the respondents in which they have stated, inter-alia that their seniority has not been correctly fixed and which has resulted in juniors being called for selection. This action and the orders have been impugned in the present OA.

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2. One of the main reliefs prayed for by the applicants is that the action of the respondents in calling junior persons in the selection, without deciding the regularisation and seniority of the applicants is illegal and arbitrary and a direction to finalise the seniority of the applicants correctly in accordance with law be issued.

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3. We have seen ^{the} reply filed by the respondents. In this reply, respondents have stated that the wrong assignment of seniority as Material Checking Clerk (MCC) and consequent selection as Senior Clerk of Respondent No.4 are under consideration of the competent authority. They have clearly admitted in paragraph-5 of the reply that there is an erroneous inclusion of Respondent No.4 in the selection for the post of Senior Clerk and the entire question of seniority of the concerned persons, including Respondent No.4 is presently under examination by the authorities. They have also stated that after such examination, the applicants will be entitled to their due seniority as per the rules. They have, therefore, submitted that it is only after the respondents pass a final order in terms of the relevant rules and instructions that if any grievance still survives, the applicants will have a cause of action.

4. While we do not entirely agree with the contentions of the respondents that this OA is pre-mature in view of what has been stated by the respondents themselves that they are now examining the position of the applicants vis-a-vis their juniors in terms of the

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relevant rules and instructions, which apparently they have failed to do earlier, we hope that they will take a proper decision in the matter expeditiously. We also note that this OA has been filed nearly one year earlier, ^{had} i.e., 27.8.2001 and respondents have already ^{had} sufficient time for consideration of the same. Before taking ^a ^{final} decision in the matter, the respondents shall consider the pleadings in this OA as part of the representation of the applicants.

5. Having regard to the facts and circumstances of the case, the decision of the competent authority on the issues raised by the applicants in the present OA which they have stated is under active consideration, shall be taken within one month from the date of receipt of a copy of this order with intimation to the applicants.

6. The O.A. is accordingly disposed of. No order as to costs.

V.K. Majotra
(V.K. Majotra)

Member (A)

cc.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)