

(15)

Central Administrative Tribunal
Principal Bench

O.A. No. 1401 of 1999

New Delhi, dated this the 2nd March, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. Shri Raj Kumar,
S/o Shri Nanhu Ram,
2. Shri Ashok Kumar,
S/o Shri Puran Chand,
3. Uttam Singh,
S/o Shri Punjab Singh
4. Shri Gaya Parshad,
S/o Shri Bhim Sain
5. Shri Hans Raj
S/o Shri Joti Ram
6. Shri Ram Singh
S/o Shri Kartara
7. Shri Ved Prakash,
S/o Shri Lakshmi Chand .. Applicants

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi. .. Respondents

(By Advocate: Shri P.M.Ahlawat)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated
10.9.98 (Annexure A-1) and seek seniority as
Permanent Way Mistries (Rs.380-560) w.e.f. 1984-85
with consequential benefits.

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2. Heard both sides.

3. It is not denied that applicants appeared in the written test for promotion as PWMs in 1984 and in the viva voce test in April, 1985. However, the selection panel was not declared because according to respondents, the competent authority had decided to exclude artisan staff for promotion as PWM vide his order dated 14.5.85.

4. Subsequently the Railway Board in its letter dated 29.9.87 decided that the post of PWMs have to be filled only by Gangmen and keymen on seniority-cum-suitability basis and artisans such as applicants were not eligible for promotion as PWMs.

5. The aforesaid decision was challenged by applicants in O.A. No. 546/89. That O.A. was allowed in part by order dated 13.7.94 in which it was held that vacancies which arose prior to the amendment of the rules would have to be filled in accordance with the pre amendment rules.

6. Thereupon respondents filed R.A. No. 19/95 which was rejected by order dated 20.1.95.

7. Applicants themselves state in Para 4.15 of the O.A. that in compliance with the aforesaid decision, applicants were subjected to training which they passed, and accordingly they were posted as PWMs in 1995, vide order dated 1.10.95 (Annexure A-10).

8. Applicants argue that the entire selection procedure had been completed in 1985 and their results were not declared without any valid

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reason. The channel of promotion was changed only in 1968 and prior to that year artisans like applicants were eligible for promotion as PWMs. Hence the decision of respondents to delete artisans staff from promotion was contrary to law, and when the delay in declaring the result was wholly on the part of respondents, applicants cannot be made to suffer for the delay. It is also contended that since applicants promoted on the basis of selection held in 1984-85, they are entitled to seniority over those who were selected in subsequent selections as per Rules 306 and 309 IREM Vol. I. Reliance is also placed on the ruling in H.B. Murayan Vs. Union of India 1998 (2) SLJ 191.

9. Rule 303 (a) IREM Vol. I as amended by advance Correction Slip No.9 reads thus

"The existing Para 303 (a) may be amended as follows:

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 interse seniority will be regulated batchwise 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."

10. It is clear that in accordance with the aforesaid amended Rule 303 (a) seniority has to be determined not only on the basis of the year of selection, but in the order of merit obtained in the examination held at the end of the training period (emphasis supplied) before being posted against working posts. As applicants according to their own averments passed their training only in/around 1995, we are unable to direct respondents to grant them seniority as PWMs from 1984-85 as this would be in violation of amended Rule 303 (a) IREM Vol. I, which has statutory force. In this view of the matter, Murayan's case (supra) would not assist applicants.

11. In this connection we are also informed by respondents that no promotions were made between 1984-85 and 1995 and this assertion has not been contradicted by applicants.

12. The O.A. is, therefore, dismissed. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

'gk'

S.R. Adige
(S.R. Adige)
Vice Chairman (A)