

Central Administrative Tribunal  
Principal Bench: New Delhi

CP No. -596/2001 In  
CP No. - 71/2002  
O.A. No. 2618/99

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This the 13th day of May, 2002

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

CP-596/2001

Surinder Kumar Sharma & Ors.  
S/o Shri Jagdish Prasad,  
Fitter Grade-II,  
E.M.U. Shed,  
Ghaziabad.

-Petitioners

(By Advocate: Shri S.K. Gupta)

Versus

1. Shri S. Dashrathi,  
General Manager,  
Northern Railway,  
Headquarter Office, Baroda House,  
New Delhi.
2. Shri A.K. Mishra,  
Divisional Railway Manager,  
New Delhi Rly. Station,  
State Entry Road,  
New Delhi.
3. Shri S.K. Kashyap,  
Senior Electrical Engineer,  
E.M.U. Car Shed,  
Ghaziabad.
4. Shri S.R. Vjline,  
CAO (C)  
Kashmiri Gate NR, Delhi.

-Respondents

(By Advocate: Shri Rajinder Khatter)

CP No.-71/2002

1. Shri Inderaj Singh S/o Shri Hardev
2. Shri Shiv Nath S/o Shri Banwari Lal
3. Shri Ramayan Yadav S/o Shri Bachi Yadav
4. Shri Anil Kumar Singh S/o Shri Digvijay Pal Singh
5. Shri Satbir Singh S/o Shri Ram
6. Shri Ramjas Ram S/o Shri Manni Ram
7. Shri Surinder Singh S/o Shri Kohri Singh
8. Shri Lal Chand S/o Shri Sant Ram

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9. Shri Jagdish Pal S/o Shri Jagan Nath  
10. Shri Mahipal S/o Shri Ram Swaroop  
11. Shri Sajjan Singh S/o Shri Babu Singh  
12. Shri Rakesh Kumar S/o Shri Banwari Lal

All the above petitioners are working as  
Electric Fitter (Technician)  
Car Shed, Ghaziabad

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-Petitioners

(By Advocate: Shri K.K. Patel)

Versus

Union of India through:

1. Shri Sampath Dashrathi  
General Manager  
Northern Railway  
Headquarter Office: Baroda House  
New Delhi.  
2. Shri A.K. Mishra  
Divisional Railway Manager  
New Delhi Rly. Station  
State Entry Road,  
New Delhi.

-Respondents

(By Advocate: Shri V.S.R. Krishna)

ORDER (oral)

Hon'ble Shri V.K. Majotra, Member (A)

OA-2618/99 was decided by this Tribunal vide its  
order of 17.8.2000 with the following directions:-

"In the light of the aforesaid discussion,  
we find merit in the OA. The same is  
allowed and the respondents are directed to  
assign proper seniority to the applicant  
from the dates of their joining in EMU Car  
Shed, Ghaziabad taking into consideration  
the number of days they have worked in the  
construction division and were absorbed  
with respondent No.3 vide Scheme dated  
19.12.1994 ignoring of course the dates of  
their actual joining in EMU Car Shed,  
Ghaziabad".

2. Some other applicants preferred a review  
application being RA No.419/2000 which was decided on  
23.3.2001 with the following directions:-

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"Here, we are not going into the question ourselves to verify the veracity of the dates of submission of options by the applicants in the OA as well as the review applicants. However, we find that in the interest of justice, it would be fit and proper to dispose of this review application with a direction to the official respondents that the applicants in the OA as well the review applicants and also others who have joined in pursuance of the Scheme dates 19.12.1994, should be assigned proper seniority on their absorption against Group-D permanent posts. On the basis of the dates of submission of options in EMU Car Shed, Ghaziabad and other places. The respondents are directed to implement these directions within a period of three months from the date of communication".

3. The learned counsel of the petitioners stated that without implementing the orders of this Tribunal, respondents have promoted their juniors. The respondents had preferred an application for extension of time for implementing directions of this Tribunal contained in order dated 23.3.2001. Thus, they had time till 30.9.2001 for implementation of Tribunal's directions. Learned counsel pointed out that respondents had issued merely a provisional seniority list and not the final seniority list vide order dated 11.10.2001 and have not re-assigned seniority to the applicants and the review applicants as per directions of this court.

4. Respondents have filed their reply. Learned counsel of the respondents on the other hand stated that they had issued notice dated 11.10.2001 re-assigning seniority requiring the petitioners to make representations against re-assignment of seniority position within a period of one month from 11.10.2001 failing which the re-assignment of seniority will be

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treated as final. Learned counsel stated that in this view of the matter, respondents had complied with directions of this court and not committed any Contempt of Court. We find that having been accorded an extension of time till 30.9.2001 for compliance of this court's directions, they have merely issued a provisional notice for re-assignment of seniority on a provisional basis while they were required to finalise the seniority list in terms of the options submitted by the petitioners and number of days in accordance with the directions of this court. Whereas the respondents have issued notice dated 11.10.2001 relating to the provisional re-assignment of seniority, the respondents have definitely caused delay to compliance of directions of this court when the re-assignment of seniority should have been finalised by 30.9.2001. However, respondents have referred to reply wherein they have tendered un-conditional apology for the delay in complying with the directions of this court.

5. Petitioners have submitted their representations in response to the notice dated 11.10.2001. Obviously the respondents have to take a view after considering the representations of these petitioners to finalise the seniority. Learned counsel of the petitioners in CP-596/2001 requested for hearing before their seniority was finalised. On the other hand, Shri Patel, learned counsel of petitioners in CP-71/2002 stated that petitioners would be satisfied if respondents pass the final orders in compliance of the observations and directions of this court.

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6. Having regard to the above discussion, we are of the considered view that interest of justice would be served if the respondents are directed to consider the representations of the petitioners and pass final orders on their seniority after taking into consideration observations and directions of this court and also on hearing of the petitioners in CP-596/2001 within a period of two months from the date of communication of these orders. With this, both the CPs are disposed of and notices issued to the respondents are discharged. On still remaining aggrieved, the petitioners may seek remedy in accordance with law, if so advised.

7. Let a copy of this order be placed in CP-71/2002.

V.K. Majdtra  
(V.K. Majdtra)  
Member (A)

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

cc.