

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA 205/1998

New Delhi this the 20th day of September, 2000

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

Satya Prakash Singh Raj Kumar  
S/O Shri K.P. Singh  
Resident of D-26, Harjit Niketan  
West Enclave, Pitam Pura, Delhi

(None for the applicant )

.. Applicant

Versus

1. The Chairman,  
-Railway Board, Ministry of  
Railways, Govt. of India,  
Rail Bhawan,  
New Delhi.
2. The General Manager(Personnel),  
Northern Railways,  
Baroda House, New Delhi.
3. The Deputy Controller(Stores),  
Northern Railways, Shakur Basti,  
Delhi.

.. Respondents

(By Advocate Shri R.L. Dhawan )

O R D E R (ORAL)

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

The applicant has assailed the following orders:-

- (i) Office Order dated 5.1.1998(Ann.A.1) whereby 82 ad-hoc clerks in the office of Deputy Controller of Stores, respondent 3 were regularised on promotion from D-category to C-category;
- (ii) Office Order dated 22.12.1997 regarding promotions and postings on the basis of provisional seniority list (Ann.A.2);
- (iii) Seniority lists of 25.4.97 and dated 30.9.96 (Annexure A-3 and A-4) and Order dated 10.8.93 relating to the seniority list showing applicant at the bottom. (Ann.A.5)

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The applicant has also challenged non-consideration of his representations for assigning him seniority above all ad-hoc clerks. The applicant has sought quashing of Annexures A-1, A-2, A-3 to A-5. The applicant while working as Skilled Compositor under Northern Railways Press, Shakurbasti (Ptg. & Stg.) Delhi was transferred from Skilled Compositor to the category of Office Clerk grade Rs.950-1500. He was absorbed as such by letter dated 28.6.1983 at the bottom seniority. He joined as Office Clerk on 1.7.93. He was assigned seniority w.e.f. 1.7.93 i.e. from his date of joining the duty. The Office orders dated 22.12.1997 and 5.1.98 in compliance to General Manager (P)<sup>Order</sup> were issued regularising ad hoc clerks against DR quota vacancies available upto 30.11.1992. According to the respondents in continuation of the earlier seniority lists, dated 10.8.93 and 30.8.97 a fresh and complete seniority list of Clerk/M.Clerk was issued on 28.1.1998 showing the applicant's name at Sl.No.119 by assigning him seniority from the date of his joining as Clerk in SSB Complex on bottom seniority list w.e.f. 1.7.93(Ann.R/2). The staff senior to the applicant was accordingly regularised as clerk w.e.f. 8.1.1993 and 15.4.1993 well before the date of joining of the applicant as clerk in accordance with the directions of the Tribunal in OA 807/97 and the decision of the Railway Board dated 6.11.1997.

2. The respondents have stated that the applicant has challenged the various orders passed by the respondents right

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from 1993 onwards. The respondents have stated that all these orders were issued as per the extant rules. Further the applicant's category was changed on his own request and acceptance of bottom seniority order dated 19.7.93(Ann.R.1) after being declared suitable in the suitability test and type test for the post of clerk, His category was changed and he was posted as clerk w.e.f. 1.7.93 and as such he was assigned seniority below Sh.Ashok Singh. The applicant has filed rejoinder as well.

3. Since the applicant did not present at the time of final hearing, we have proceed<sup>-ed</sup> to dispose of OA in terms of Rule 15 of the CAT(Procedure) Rules, 1987 and heard learned counsel Shri R.L.Dhawan. He has contended that applicant's name have been shown at the bottom of seniority list of 10.8.93 as per Annexure A-5. The seniority list<sup>have been</sup> issued from time to time thereafter but taking into account the applicant's position in his seniority list of Annexure A-5 the cause of action, if any, has arisen on 10.8.93 when applicant joined at the bottom of the seniority list. He did not challenge the same in time and there is no justification for him to impugn the same after inordinate delay in this OA. Afterwards the applicant category was changed from the post of Skilled Compositor to the Office Clerk on 1.7.93 after<sup>having</sup> qualified the suitability test and type test for the post of clerk for which the applicant was declared successful. His seniority was fixed on the basis of his joining as clerk on 1.7.93. No

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one <sup>who</sup> had joined as clerk after 1.7.93 had been shown senior to the applicant. All those who had been promoted as clerk earlier than 1.7.93 have been shown senior to the applicant in the seniority list. The respondents have also taken an objection regarding non-joinder of the parties as the applicant has not made any one of persons as parties in the OA who had been shown senior to him in the seniority list and are likely to be affected.

4. From the pleadings and the material on records, we find that a large number of ad hoc clerks were regularised on post facto approval of the Railway Board's orders dated 22.12.1997 and 5.1.98 against DR quota vacancies available upto 30.11.1992. The concerned personnel have been regularised as clerk prior to 1.7.93 when the category of the applicant was changed to the post of clerk. Agreeing with the learned counsel of the respondents, we do not find any justification in applicant's challenge to the seniority issued in 1993 when the applicant was shown at the bottom and the consequential seniority lists. On the basis of the records, we find that the category of the applicant was changed on his own request on his participation and clearance in the suitability test and type test but assigning seniority below Sh. Ashok Singh, Clerk. The contentions of the applicant in the rejoinder that "each and every step of the respondents has ~~been~~ proved prejudicial to the interest of the applicant, hence the applicant has

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justification in law to impugn the orders of the respondents right from the very beginning i.e. from the year 1993 cannot be accepted, having regard to the facts and the law on limitation.

5. In view of what has been stated above, we do not find any merit in the OA. The same is accordingly dismissed.

No costs.

*V.K. Majotra*

(V.K. Majotra)  
Member (A)

*Lakshmi Swaminathan*

(Smt. Lakshmi Swaminathan)  
Member (J)

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