

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 530/98

New Delhi this the 25 Day of September, 1998

Hon'ble Mr. Justice K.M. Agarwal, Chairman  
Hon'ble Mr. R.K. Ahooja, Member (A)

Nirmal Singh Kanwal,  
Son of Shri Naurata Singh  
Office Superintendent-I,  
Northern Railway Headquarters,  
Baroda House, New Delhi-110 001. ... Applicant

(By Advocate: Shri P.M. Ahlawat)

-Versus-

Union of India, through

1. The General Manager,  
Northern Railway,  
Baroda House, New Delhi-110001.
2. The Dy. Chief Personnel Officer  
(Headquarters),  
Northern Railway,  
Baroda House, New Delhi-110 001. ... Respondents

(By Advocate: Shri O.P. Kashtriya)

ORDER

Hon'ble Shri R.K. Ahooja, Member (A)

The applicant joined service as a Clerk w.e.f. 19.3.1959. He was promoted as Head Clerk w.e.f. 15.2.1982. Thereafter, he was promoted to the rank of Office Superintendent (OS) Grade II in the pay scale of Rs. 1600-2600 (RPS) on an ad hoc basis, pending selection, as per his seniority w.e.f. 29.4.1987. On the basis of seniority, he was included in the panel of selection notified on 29.1.1990. He claims that he was further due for promotion as Office Superintendent-I in the pay scale of Rs. 2000-3200 (RPS) but in the meantime his seniority was recasted vide Notice dated 22.2.1991 avowedly on the basis of directions given by this Tribunal in O.A. No. 476/90 dated 23.3.1990. Aggrieved

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by this action the applicant filed an O.A. No. 668/91 seeking a direction to quash the recasted seniority list dated 22.2.1991 and to promote him as per the earlier seniority circulated by letter dated 7/90. In the meantime, the applicant was given the promotion to the rank of Office Superintendent-I in the pay scale of Rs. 2000-32000 w.e.f. 1.3.1993 and he was retired from service from 31.10.1995. The O.A. No. 668/91 was disposed of by the Tribunal by order dated 26.4.1996 with the direction to respondents to decide the matter in the light of the rulings given by the Hon'ble Supreme Court in Union of India Vs. Virpal Singh Chauhan & Ors. JT 1995 (7) SC 231, R.K. Sabharwal & Ors. Vs. State of Punjab & Ors., 1995(2) SCC 745 and J.C. Malik & Others Vs. Union of India & Ors. 1978(1) SLR 844 Allahabad High Court. The grievance of the applicant is that the respondents have wrongly interpreted the direction given by the Tribunal and not granted the relief of setting aside his recasted seniority notified on 22.2.1991.

2. The respondents in reply have stated that the recasted seniority list was prepared on the basis of Law laid down by the Tribunal in Virpal Singh Chauhan's case 1987(4) ATC P. 685 and the Interim order given by the Hon'ble Supreme Court dated 21.12.1984.

3. We have heard the counsel on both sides. The learned counsel for the applicant has relied on the orders of this Tribunal, by this very Bench in Smt. Renu Vasudeva Vs. Union of India, in O.A. No. 306/98 dated 27.8.1998. The applicant therein had joined service as a

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Clerk and was then promoted as Office Superintendent Grade II on ad hoc basis in 1985 which was regularised on 25.2.1987. Thereafter, she was promoted as Office Superintendent Grade I on 19.4.1990 but was reverted back. Thereafter, her seniority came to be recasted as she belonged to Scheduled Caste category. The same view was taken by the respondents as in the present application, but the contentions were rejected and directions were given by the Tribunal in the following terms:

"In the light of the above discussion, we dispose of this O.A. with the direction to the respondents to consider applicant's case for promotion to the post of Office Superintendent Grade I subject to the availability of vacancy from 1990 onwards on the basis of pre-revised seniority as Office Superintendent Grade II. If her promotion as Office Superintendent Grade I is as a result antedated, she will be entitled to her seniority and notional fixation of pay. She will however be not entitled to any arrear of pay till the date of filing of this O.A, i.e. 5.2.1998. There will be no order as to costs."p

4. We find that the facts and circumstances in both the cases being substantially the same, the ratio of Tribunal's order in Renu Vasudeva would apply in the present O.A. also. Our conclusion is further fortified by the order of the Supreme Court in Akhil Bhartiya Soshit Karamchari Sangh, Through its Secretary & Anr. Vs. Union of India through its Secretary, Ministry of Railway & Ors., JT 1996(8) S.C. 274 where the following observations were made by the Hon'ble Supreme Court.

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 "This Court in Chauhan's case accepted the direction in Sabharwal's case that appointments according to roster already made prior to the




judgement in Sabharwal's case are legal and valid. In effect, they were declared legal and valid and direction was given to determine seniority in the light of the principles laid down therein. It was held that when the panel/select list was prepared at the time of making selections for promotion to the selection post it would be that panel and not the panel/select list prepared at the time of appointment to the initial grade that would determine the seniority to the post. It would obviously apply to future cases in accordance with the rule, the subject matter of the interpretation in the judgement in Chauhan's case. Therefore, the two judgements become effective from the date of the decision in Sabharwal's case. All appointments made prior to that date being legal and valid including right to seniority in promoted post or cadre, they require to be given effect to."

5. In the result the O.A. is allowed. The respondents are directed to consider the applicant's case for promotion to the post of Office Superintendent Grade I subject to availability of vacancy from 1990 on the basis of the pre-revised seniority as Office Superintendent Grade II. If his promotion as Office Superintendent is as a result antedated he will be entitled to his seniority and notional fixation of pay at the time of retirement. He will, however, not be entitled to any arrears of pay but will be entitled to arrears on account of retiral benefits including pension.

There will be no order as to costs.

  
(K.M. Agarwal)  
Chairman

  
(R.K. Ahuja)  
Member(A)

\*Mittal\*