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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.597/1998

New Delhi, this 28th day of August, 2000

Hon'ble Shri Kuldip Singh, Member (J)  
Hon'ble Smt. Shanta Shastry, Member (A)

D.R. Sarna  
Head TTE, o/o Dvnl., Chief Ticket Inspector  
Northern Railway, Delhi Junction  
Delhi ....., ....., Applicant  
(By Shri H.K. Gangwani, Advocate)

..... versus  
Union of India, through

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

(By Shri Rajeev Bansal, Advocate)

ORDER(ORAL)

Hon'ble Shri Kuldip Singh, Member (J)

Applicant in this case has impugned the seniority list dated 25.7.97 (Annexure A-1) which intends to modify/alter the seniority list which had been issued sometime in the year 1980.

2. Facts in brief, as alleged, are that the applicant had earlier joined the post of Accounts Clerk on 15.5.1979 at Ferozepur. Thereafter he was posted as TCR w.e.f. 24.2.80 and he was assigned seniority accordingly. On the basis of said seniority, he had also attained promotions in the higher grade. Even in the seniority list issued on 28.2.1995 the applicant had been shown at S.No.94 below Shri B.D. Yadav and above Shri Vipin Kumar Malhotra as per Annexure A-3. But when the impugned seniority list dated 25.7.1997 was issued the applicant has been  
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shown at S.No.30 whereas in fact he should have been at S.No.2A above Vipin Kumar Malhotra and in the alternative if date of appointment is to be taken into consideration, i.e. 24.2.80 then he should be at S.No.11A and still further he could be placed at S.No.20A below Bhagwan Das Yadav which position has been maintained in the last 2 seniority lists and which has been kept undisturbed for the last about 17 years. Respondents had altered the seniority list without notice to the applicant and the same is liable to be quashed and the earlier seniority list should be restored.

3. Respondents contested the O.A. by filing their counter-affidavit. It is stated that applicant initially joined as Accounts Clerk initially on 15.5.79 at Ferozepur and while he was so working, he was selected for the post of TCR in the grade of Rs.260-400 through Railway Recruitment Board and had been allotted Delhi Division. He was booked for TP course at Chandausi from 24.2.1980 to 23.3.1980 and was declared passed under the supplementary category.

4. It is further stated that the applicant's seniority has been properly assigned as per results of the course undertaken by him at Chandausi as per Para 302 of Indian Railway Establishment Manual.

5. It is further stated in reply and in para-wise reply that "the applicant is well aware that his seniority has to be calculated from 24.2.1980". Jw

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Again, in para 4.6, the respondents have stated that there are certain provision to assign the seniority of the direct recruitee candidates which have been followed for determining the seniority when he was appointed as TCR grade Rs.260-400 on 24.2.80 and his seniority has been assigned from 24.2.80 and according to the merit position of ZTS/Chandausi as per IREM para 302.

7. ....Thus in a way the respondents maintained that the revised seniority list is correct and the applicant is to be assigned seniority as per the date of appointment as TCR in the grade of Rs.260-400 on 24.2.80.

8. ....We have heard the learned counsel for the parties and have gone through the records.

9. ....During the course of arguments Shri Rajeev Bansal, Counsel appearing for the respondents was confronted with these paragraphs vis-a-vis the impugned seniority list and it revealed as if the applicant has not been assigned seniority w.e.f. 24.2.80 because certain persons who had been appointed after 24.2.80 has been shown senior to him whereas the department as per their counter-affidavit have stated that the applicant is to be assigned seniority w.e.f. 24.2.1980. As such we find that the defence as contained in the counter-affidavit filed by the respondents is contrary to the position of the applicant as indicated in the seniority list.

10. ....Accordingly we dispose of this OA directing the respondents to correct the seniority list and assign seniority to the applicant at an appropriate place as per his date of appointment, i.e., 24.2.1980 and as per their stand taken in the counter affidavit. While correcting the seniority list, respondents shall

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please follow the rule, instructions and judicial pronouncements on the subject. This should be done within a period of 3 months from the date of receipt of a copy of this order. No costs.

*Smt. Shanta Shastri*  
(Smt. Shanta Shastri)  
Member (A)

*Kuldeep Singh*  
(Kuldeep Singh)  
Member (J)

/Rakesh