

3

Central Administrative Tribunal
Principal Bench.

19

D. A. 657/98.

New Delhi, this the 24th day of November, 2000.

Hon'ble Mr. Guldip Singh, M (J)
Hon'ble Mr. S.A.T. Rizvi, M (A)

1. Jagdish Chand S/o Sh. Gulzari Lal
Electrical Assistant,
Northern Railway, Delhi Division,
Railway Station, Ghaziabad (UP)
2. Ramesh Chand S/o Sh. Sewa Ram
Diesel Assistant, Northern Railway,
Delhi Division,
Railway Station, JMI, Haryana.
3. Mahabir Prasad S/o Sh. Ram Chander
Diesel Assistant (DA),
Delhi Division, Northern Railway,
JMI, Haryana.
4. Jadish Chandra S/o Sh. Jai Karan Dass
Diesel Assistant,
Delhi Division, Northern Railway,
Railway Station JMI (Haryana)
5. Ashok Kumar S/o Sh. Sita Ram
Delhi Division,
Northern Railway, Railway Station,
JMI (Jeend) Haryana.
6. Phool Kumar, Het Ram
Electrical Assistant,
Northern Railway, Delhi Division,
Railway Station, Tuglakabad, Delhi.
7. Shishu Pal Singh S/o Mohan Singh,
EA, Delhi Division,
Northern Railway, Tuglakabad, New Delhi.
8. Chet Ram S/o Sh. Bali
EA, Northern Railway, Delhi Division,
Railway Station, Tuglakabad,
New Delhi.
9. Dharambir S/o Sh. Jai Lal
DA, Northern Railway,
Delhi Division,
Railway Station SSB.
10. Ved Prakash S/o Sh. Sher Singh
EA, Delhi Division,
Northern Railway, TKD, Delhi.
11. Brij Mohan S/o Sh. Om Prakash
EA, Delhi Division,
Northern Railway,
Railway Station Ghaziabad,

22. Hans Raj S/o Sh. Kulwant Ram
DA, Northern Railway, Delhi
Division, Railway Station
JHI, Haryana. (20)
13. Praveen Kumar S/o S. Saran
DA, Northern Railway,
Delhi Division,
Railway Station, Ghaziabad, UP.
14. Vinod Kumar S/o Sh. Duro Pal Singh
EA, Northern Railway,
Delhi Division,
Railway Station, Ghaziabad, UP.
15. Jagdish Chander S/o Sh. Ram Kishan
DA, Northern Railway,
Delhi Division, JHI, Haryana .
16. Surender Pal Singh S/o Sh. Bihari Singh
EA, Northern Railway,
Delhi Division, Railway Station,
Tuglakabad, New Delhi.
17. Virender Kumar S/o Sh. Sudesh Chander
EA, Northern Railway,
Tuglakabad, New Delhi.
18. Gagan Singh S/o Sh. Bakshi Ram
DA, Delhi Division,
Northern Railway, JHI, Haryana.
19. Hari Baboo S/o Sh. Vajay Pal Singh
EA, Delhi Division,
Northern Railway, Ghaziabad, New Delhi.
20. Satpal Singh S/o Sh. Ram Dass
DA, Northern Railway
Delhi Division, JHI, Haryana.
21. Isham Pal Singh S/o Sh. Bishamber Singh
DA, Northern Railway, Delhi Division,
MTC, New Delhi.
22. Mahesh Pandit S/o Sh. V Pandit
EA, Northern Railway,
Delhi Division, Tuglakabad, Delhi.
23. Brahm Pal Singh S/o Sh. AR Singh
EA, Delhi Division,
Northern Railway, Ghaziabad, UP.
24. Bhagwan Singh S/o Sh. Sharan Singh
DA, Northern Railway,
Delhi Division, JHI, Haryana.
25. Bal Mukund S/o Sh. Girdhari Lal
EA, Delhi Division,
Northern Railway, Tuglakabad, Delhi.
26. Bal bir Singh S/o Om Prakash
EA, Northern Railway,
Delhi Division, Delhi.
27. Surender Pal Singh S/o Sh. Bharod Singh

DA, Northern Railway,
Delhi Division, Delhi.

21

28. Kaustav Kaustayan S/o Sh. Hari Singh
DA, Northern Railway,
Delhi Division, JHI, Haryana.

29. Hans Raj S/o Sh. Bhanu Raj
DA, Northern Railway,
Delhi Division,
JHI, Haryana.

30. Amar Singh S/o Sh. Keshar Singh
DA, Delhi Division,
Northern Railway,
JHI, Haryana.

31. Shiv Singh S/o Sh. Devi Ram
DA, Northern Railway, Delhi division,
Delhi,

32. Bhushan Kumar S/o Sh. Ram Swaroop,
DA, Northern Railway, Delhi Division,
Delhi.

33. Arun Kumar S/o Jagdish Prasad,
DA, Northern Railway,
Delhi Division, JHI (Haryana).

34. Satish Kumar S/o Sh. Mohan Lal
DA, Northern Railway, Delhi Division,
JHI, Haryana

35. Daya Chand S/o Meer Singh
DA, Northern Railway,
Delhi Division, Ghaziabad, UP

Anil Kumar Uppal S/o Sh. O.P. Uppal
DA, Northern Railway,
Delhi Division, SSB .

APPLICANTS

(By Advocate: Sh. A.K. Bhardwaj)

VERSUS

1. UNION OF INDIA (Northern Railway)

Through:-

The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Divisional Office,
Northern Railway,
Delhi Division, Paharganj, New Delhi.

3. The Divisional Personnel Officer,
Northern Railway,
Divisional Office,
Delhi Division, New Delhi.

4. The Asstt. Personnel Officer,
Northern Railway,
Delhi Division, Divisional Office,
Paharganj, New Delhi.
5. Vinod Kumar, S/O Sh. M.C.Gupta,
DA, Northern Railway,
Delhi Division, SSB (Sakurbasti), Delhi.
6. Subhash Chand, S/O Sh. Kishan Pal
DA, Northern Railway, Delhi Division,
C/O Divisional Office,
(NR), Paharganj, New Delhi.

(By Advocate: Sh. R.L.Dhawan)Respondents.

O R D E R

By Hon'ble Sh. S.A.T. Rizvi, Member (A):-

The applicants, Diesel Assistants & others working in the Northern Railway Delhi Division, are aggrieved by the respondents' act of changing their seniority position by placing their juniors (27 in number) above them. They have, in particular, referred to the seniority list of 22.8.94 (Annexure A-11) in which the applicant No.1 was listed at Sl.No.506 but now figures at Sl.No.533 of the impugned seniority list dated 20.1.98 (Annexure A-1). They have also drawn attention to the seniority position of respondent No.5 who figured at Sl.No.620 in the seniority list of 22.8.94 but now figures at Sl.No.512 in the impugned seniority list. The applicants are also aggrieved by the respondents' act of giving promotions to their juniors (respondent Nos. 5 & 6) and even others without considering their claim.

2. The respondents failed to file their reply and consequently their right to do so stood forfeited. However, at the argument stage, learned counsel on either side have been heard. The learned counsel for the respondents wanted to file certain records for which time

dr

23

was given to him. He has produced a photo-copy of the Northern Railway's letter dated 21.10.97 alongwith a photo-copy of PS No.9187 referred to in the said letter after the arguments have been heard. Prior to this, the learned counsel had produced copies of Northern Railway's letter dated 22.8.97 and 21.10.97 at the time of hearing of the arguments. These three documents made available by the learned counsel for the respondents have been placed on record.

3. The applicant's case is that they joined as Fireman Gr. 'A' w.e.f. 5.7.92 which post is equivalent to the posts of Diesel Assistant and Electrical Assistant, i.e., the posts of Diesel Asstt. and Electrical Asstt. and the post of Fireman 'A' are equivalent posts in the Railways. In the seniority list issued by the Railways on 13.8.93, the respondents had fixed the seniority of the applicants at Sl.Nos. 485 to 488, 494 to 497, 499, 500, 503, 504, 509, 526, etc. The respondent Nos. 5 & 6 together with their batch-mates, who joined as direct recruit Fireman-A in Delhi Division after 3.11.92, were not even borne in the aforesaid seniority list dated 13.8.93. The said respondents were brought to Delhi Division on their own request from Moradabad Division. They joined as Fireman-A as direct recruits only after completing their training on 22.8.92. This way, as on 5.7.92, on which date the applicants had joined as Fireman-A/Diesel Asstt./ Electrical Asstt., the respondents were not even borne on the strength of the Railway administration. The Railways revised the aforesaid seniority list of 13.8.93 later on 22.8.94 and

2

in this latter list also, the applicants occupied senior positions vis-a-vis the respondents. Thus, on two different occasions when the Railways brought out seniority lists, the applicants occupied senior positions vis-a-vis the respondents. In order to bring home their point that they were actually senior to the respondents in terms of the relevant rules, the applicants have referred to para 303 of the Indian Railway Establishment Manual Vol.I (IREM) which provides that the candidates who are sent for initial training to a training school, rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before, being appointed against working posts. According to the applicants, the respondent Nos. 5 & 6 and their batch-mates were deputed for training of 104 weeks which was completed on 22.8.92 and the result was declared in November, 92 (Annexure A-9). The applicants' contention is that the seniority of Diesel Asstts. etc. directly recruited as above, is fixed from the date of their joining the working posts after the completion of training. In regard to the aspect of seniority, the applicants have also mentioned that since the respondents and their batch-mates were actually recruited against the strength of Moradabad Division, their seniority following their transfer to Delhi Division should have been fixed at the bottom of the seniority list of the Diesel/Electrical Asstts/Fireman Group-A.

4. There is some dispute about the period of training in this case and it is precisely to meet this

2✓

point that the learned counsel for the respondents has filed the papers as stated in para 2 above. These papers especially the letter dated 21.10.97 filed by the respondents do indicate that the seniority was to be assigned to the diploma holders after the completion of one year's training as prescribed in PS No.9187. The said PS No.9187 is a document dated 19.2.87 on the subject of revision of the rates of stipend applicable to Apprentices/Trainees on Railways. In column 5 of this document, certain periods have been indicated which are presumably the periods of training. The same indicates that for Diesel Asstt. with diploma the period would be upto one year and would exceed that period in the case of Matriculates. For Electrical Asstt. and for first Fireman, the same documents prescribed 18 months and two years respectively as the periods of training. These documents filed by the learned counsel for the respondents have appeared on the scene only in October, 1997, i.e., several years after the private respondents in this case and their batch-mates were recruited. The matter in fact relates to 1992 and the claim of the applicants arises and has been made with reference to the position obtaining at that point of time.

5. The applicants have averred that the private respondents and their batch-mates received full training of 104 weeks and, therefore, in their case, there could be no mistake in regard to their seniority vis-a-vis, the applicants and as already stated, the respondents should have found place below the applicants by virtue of the fact that while the latter were inducted as

2

Fireman-A/Diesel Asstt/Electrical Asstt. on 5.7.92, the Firemen etc. who completed their aforesaid period of training only on 22.8.92 could not possibly have joined working positions (after training) in any case before 5.7.92. Referring to relaxation made by the Railways in the period of training, the applicants have placed on record documents to show that the relaxation was made as a one time measure and was limited to that particular batch which was different from the batch of the respondents and their batch-mates. In the case of that other batch, the period of training was reduced for 104 weeks to 52 weeks and apparently on the basis of the reduced period of training, the seniority of the trained batch was fixed vis-a-vis the other incumbents. These facts have not been controverted by the learned counsel for the respondents.

6. During the course of the arguments, it transpired that the impugned seniority list dated 20.1.98 is likely to have resulted from a consideration of reduction of the training period of directly recruited officials from 104 weeks to 52 weeks. This should not have happened having regard to the facts established by the applicants to the effect that the respondents and their batch-mates did undergo the training of 104 weeks in full and also that they (respondents) came to Delhi Division from Moradabad Division. In this background, there is force in the applicants' arguments that the respondents should have thought of issuing a show case to them before revising the seniority list dating back to 1992. The applicants have represented against the said act of the respondents but a response thereto is still awaited.

2

7. To sum up, the position that emerges is that all the seniority lists placed on record which were issued on 22.8.94 or on 13.8.93 or on 20.1.98 (one impugned in this OA), are provisional. On record is placed yet another seniority list of 10.11.94 which too is provisional. Thus we have on record as many as 4 provisional seniority lists. The impugned seniority list dated 20.1.98 is yet to be finalised. The real point in dispute is the period of training which the respondents and their batch-mates are likely to have undergone. The applicants insist that they have undergone full training lasting 104 weeks. From the papers placed on record, it seems that in respect of some batch, presumably the 1989 batch, the period of training was reduced from 104 weeks to 52 weeks. By virtue of this reduction, the trained recruits/ respondents have been given higher seniority than otherwise admissible to them. It seems likely that this very batch of trained officials got intermixed with the applicants and since they went through only one year's training, they have been fixed up higher in the seniority list. The applicants are, therefore, aggrieved. From the note below rule 302 of the IREM Vol.I, it would appear that if the training period of a direct recruit is curtailed in the exigencies of service, the date of joining the working post in case of such a direct recruit shall be the date on which he would have normally come to a working post after completion of the prescribed period of training. It would, therefore, seem that the reduction in the period of training will not alter the situation in favour of the trained officials. The said rule, therefore, is in favour of the applicant.

2

However, what is not clear and, therefore, needs to be ascertained is whether the disputed situation actually arises from the reduction of the training period or else due to a lesser period of training than two years prescribed for the trainees as mentioned in the early part of para 4.

8. In the background of the above discussions, the respondents are directed to consider the observations made in the preceding paragraphs of this order and having regard to the contentions raised by the applicants in this OA take a final decision in regard to the impugned seniority list dated 20.1.98 within a period of three months from the date of receipt of a copy of this order.

2 9. The OA is disposed of as above without any order as to costs.

S.A.T. Rizvi
(S.A.T. Rizvi)
Member (A)

Kuldip Singh
(Kuldip Singh)
Member (J)

/sunil/