

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. 1898/95

(22)

New Delhi this the 11th day of August, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

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

1. Shri Mukesh Kumar
s/o Shri Radhey Shyam

2. Shri Mahinder Kumar
s/o Shri Hari Ram

3. Shri Satish Kumar
s/o Sh

.... Applicants

(All Khalasis under C.W. Manager,
Signal Workshop, Ghaziabad)

(By Advocate Shri B.S. Mainee)

vs.

Union of India : Through

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

2. The Chief Signal & Telecommunication
Engineer, Northern Railway, Baroda House,
New Delhi.

3. The Chief Workshop Manager,
Northern Railway, Signal Workshop,
Ghaziabad.

(By Advocate Shri N.K. Aggarwal) Respondents

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicants are aggrieved by the impugned order dated 17.5.94 passed by the respondents by which they were informed that their seniority will be fixed in the panel of 23.3.94 from the date of their screening i.e. on 23.3.1994 in accordance with the orders of the Central Administrative Tribunal dated 7.4.1994.

2. We have heard both the learned counsel for the parties and perused the relevant judgments of the Tribunal in the case.

3. The main contention of the learned counsel

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for the respondents is that the case is barred by res-judicata and limitation. We are unable to agree with this contention. The question of seniority of the applicants has not been correctly decided in the impugned order dated 17.5.94 as can be seen from the facts and circumstances of the case, and the case was [redacted] decided by the Tribunal in CP 261/94 in CP-32/94 in OA 2873/92 by the orders dated 7.4.1994 and 11.1.1995. The Tribunal in CP 261/94 by order dated 11.1.1995 held as follows:-

"On 17.5.94, an order was passed by the competent authority that the seniority of the petitioners had been determined with effect from 23.3.1994, the date on which the result of their screening test was announced. Obviously, the legality of this order has not been challenged so far by the petitioners. If the order dated 17.5.94 is read as it is in the light of the observations/directions given by this Tribunal on 7.4.94 in CP No.32/94, there can be no getting way from the fact that the respondents have purported to consider the question of promotion and seniority of the petitioners in accordance with law. Therefore, the question of disobedience of the observations/directions, aforesaid, does not arise. The remedy of the petitioners, if any, is to challenge the legality of the aforesaid order dated 17.5.1994 by taking appropriate steps before an appropriate forum."

4. In the earlier order in CP 32/94, although it was noted by the Tribunal that the process of regularisation as directed by the Tribunal has been completed belatedly, [redacted] these proceedings are liable to be dropped. It was further ordered that 'this does not mean that the cases of the petitioners should not be considered in accordance with their turn and in accordance with law.'

5. In the light of the above orders of the Tribunal, the question of limitation does not arise in this case. Respondents have contended that although the juniors to the petitioners were screened by the Screening Committee in Jan., 1989, they could not be screened till 1994 and, therefore, they ought to get

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their seniority only from the date of panel i.e. 23.3.94.

This stand is not supported by the facts or the aforesaid orders. The dismissal order has been quashed by the Tribunal vide order dated 11.5.90 in OA 1351/89 with connected OAs. We have also seen the judgments of this Tribunal in OA 648/95 decided on 6.12.1995 which is relied upon by the learned counsel for the applicants. We are in respectful agreement with the reasoning in that order.

D 6. In the facts and circumstances of the case, since the screening has already been completed and the applicants have been declared successful, they are entitled for regularisation of their service from the date their juniors have been regularised and to be given promotion, if found otherwise suitable, from the dates their juniors got the promotion, with consequential benefits in accordance with law. These directions shall be complied with by the respondents within three months from the date of receipt of a copy of this judgment.

O.A. is disposed of as above. No order as to costs.

Akash -
(R.K. Ahoja)
Member (A)

Lakshmi
(Smt. Lakshmi Swaminathan)
Member (J)

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