

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.2677/96

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 1st day of May, 2000

Hari Prasad  
s/i Sh. Man Singh  
Electric Fitter, Grade-III  
Electric Loco Shed (TRS)  
Western Railway  
Tughlakabad  
New Delhi - 44.  
r/o D-317 Pul Prahladpur  
Tughlakabad  
New Delhi - 110 044.

... Applicant

(By Shri A.K.Bhardwaj, Advocate)

Vs.

Union of India, through

1. General Manager  
Western Railway  
Churchgate  
Bombay.
2. The Divisional Railway Manager  
Western Railway  
Kota Division  
Kota (Rajasthan).
3. Senior Divisional Electrical Engineer  
Electric Loco Shed (TRS)  
Western Railway  
Tughlakabad.  
New Delhi - 110 044.
4. Sh. Om Parkash  
s/o Arjun Singh  
ELF/Grade II  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Tughlakabad  
New Delhi - 44.
5. Sh. Satya Pal Singh  
s/o Sh. Subedar Singh  
ELF/II TKD Through  
Sr. DEE/TRS  
Electric Loco Shed  
Western Rly. Tughlakabad  
New Delhi - 44.
6. Sh. Sabir Ali  
ELF/Gr.II  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Tughlakabad  
New Delhi - 44.



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7. Shri Giri Raj Prasad  
ELF/Gr.II  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Tughlakabad  
New Delhi - 44.
8. Shri Sardar Singh  
ELF/Gr.II  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Tughlakabad  
New Delhi - 44.
9. Subhash Chand  
ELF/Gr.II  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Tughlakabad  
New Delhi - 44.
10. Prahlad Lal Sharma  
s/o Shri Suraj Mal  
ELF/Gr.(I)  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Western Railway  
Tughlakabad  
New Delhi - 44.
11. Pradeep Kumar  
s/o Shri Om Prakash  
ELF/Gr.I  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Western Railway  
Tughlakabad  
New Delhi - 44.
12. Ashok Kumar  
s/o Sh. Hukam Chand  
ELF/Gr.I  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Western Railway  
Tughlakabad  
New Delhi - 44.
13. Sh. Parshu Ram Yadav  
s/o Sh. Ram Avadh Yadav  
ELF/Gr.I  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Western Railway  
Tughlakabad  
New Delhi - 44.
14. Shri Om Parakash 'T'  
s/o Sh. Trilok Singh  
ELF/Gr.I  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Western Railway  
Tughlakabad  
New Delhi - 44.

*[Handwritten signature]*

15. Sh. Inder Prasad  
s/o Laloo Prasad  
ELF/Gr.I  
Through Sr. D.E.E/TRS  
Electric Loco Shed (TRS)  
Western Railway  
Tughlakabad  
New Delhi - 44.

... Respondents

(By Shri P.S.Mahendru, Advocate)

O R D E R (Oral)

By Reddy. J.

The applicant was, initially, working as Khalasi at Electric Loco Shed, Tughlakabad, New Delhi. He was subjected to Trade Test, for selection to the post of Electric Fitter Grade-III, in the pay scale of Rs.950-1500 w.e.f. 13.2.1990. His name was placed at Sl. No.72 of the seniority list dated 9.11.1993 of Electric Fitters Grade III. Lateron the applicant was trade tested and after he passed the trade test, he was empanelled for promotion to the post of Electric Fitter Grade-II, by order dated 10.5.1994. Subsequently, however, the applicant's promotion has been cancelled by the impugned order, stating that the applicant's seniority was revised by order dated 21.10.1993.

2. The learned counsel for the applicant, Shri A.K.Bhardwaj, contends that as the earlier seniority list was recast after taking into consideration the objections raised and the seniority list dated 9.11.1993 was prepared, the said list has become final and the same cannot be revised by an earlier date 21.10.1993 that too without notice.

3. The learned counsel for the respondents, Shri P.S.Mahendru, submits that provisional seniority list of Khalasis was notified on 8.2.1988 but it was

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prepared on the basis of the employees declaration, since service record of the many employees was not available at that time. Lateron, on receipt of complaints, as it was found that the applicant's seniority had been assigned wrongly as he was regularised w.e.f. 7.2.1987. Hence, after issue of a show cause notice, the seniority position of the applicant was revised by letter dated 21.10.1993 and the applicant was at Sl. No.272 of the seniority list of 9.11.1993. It is therefore, contended by the learned counsel for the respondents that as his seniority was revised, the applicant is not entitled to the promoted post, hence his promotion was cancelled.

4. We have perused the pleadings and considered the arguments of the learned counsel on either side, carefully.

5. In the impugned order the only reason that was given for cancellation of the applicant's promotion was that the seniority list in the post of Electric Fitter Grade-III has since been revised by letter dated 21.10.1993 and as he was promoted on the basis of the earlier seniority list, the applicant was not entitled for promotion. Though it is the case of the respondents that a notice has been issued on 21.6.1990 to the applicant, and only thereafter the seniority list has been revised, the applicant denies the same. The learned counsel for the applicant also vehemently contends that no notice has been issued to the applicant.



6. The respondents have also not enclosed the notice dated 21.6.1990 though it was stated in the reply that it has been enclosed as Annexure-R1. Moreover, both the parties, applicant as well as the respondents rely upon the seniority list of 1993, according to the applicant he is at Sl. No.72 whereas he was placed at Sl. No.272, as per the respondents. The seniority list has been filed as Annexure-A8. We have perused the same wherein we find that the name of the applicant is shown at Sl. No.72 and not below the name of Shri Mahesh Kumar and above the name of Shri L.Deewan Singh, as stated by the learned counsel for the respondents.

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7. As Annexure-A8, the seniority list of 9.11.1993, has been prepared after considering the objections raised against the draft seniority list, the plea of the respondents that it has been once again recast, appears to be wholly, unacceptable.

8. Law is well settled that the employee concerned should be heard after giving notice before the seniority list is disturbed. It is also not known how the applicant was trade tested and was given promotion if the applicant was shown at Sl. No.272 in the seniority list of 9.11.1993. Though we have directed the respondents to produce the relevant records, the respondents had not produced the same but learned counsel for the respondents only handed over the order dated 21.10.1993 but no records as such have been produced. The reasons given for not doing so cannot be acceptable. In fact, we may have issued notice for Contempt of the Court.

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9. In the circumstances of the case, we are of the view that the impugned order is liable to be set-aside and is accordingly set-aside. We direct the respondents to give adequate notice to the applicant and after hearing him, pass appropriate orders with regard to the seniority of the applicant in the post of Electric Fitter Grade-III. This will be done within four months from the date of receipt of a copy of this order. The respondents are directed to continue the applicant in the promoted post, Electric Fitter Grade-II as per the promotion order dated 10.5.1994. OA is accordingly disposed of. No costs.

*Shanta Shastri*  
(SMT. SHANTA SHASTRY)  
MEMBER(A)

*V. Rajagopala Reddy*  
(V. RAJAGOPALA REDDY)  
VICE CHAIRMAN(J)

/RAO/