

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1530/97

New Delhi, this the 25th day of May, 2000.

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. H.O. GUPTA, MEMBER (A)

Sh. Onkar Nath Sharma, S/O Sh.
R.L.Sharma, Yard Master, Northern
Railway, Railway Station, Delhi Junction.

.....Applicant.

(By Advocate: Sh. B.S.Mainee)

VERSUS

Union of India : Through

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, State Entry Road, New Delhi.
3. Sh. R.S.Dube, S/O Sh. Madan Mohan Dubey, Yard Master, Under Station Superintendent, Northern Railway, Shakurbasi Station.
4. Sh. Jagjit Singh, S/O Sh. Mahendra Singh, Yard Master, Under Sr. Station Manager, Northern Railway, New Delhi.
5. Sh. Virender Singh, Yard Master, Under Sr. Station Manager, Northern Railway, New Delhi.
6. Sh. A.K.Kaushak, S/O Sh. K.S.Kaushak, Yard Master, Under Station Superintendent, Northern Railway, Ghaziabad.
7. Sh. Manak Chand, S/O Shri Naksho Singh, Yard Master, Under Sr. Station Manager, Northern Railway, New Delhi.
8. Sh. Dalbir Singh, S/O Sh. Niranjan Singh, Yard Master, Under Senior Station Manager, Northern Railway, New Delhi.
9. Sh. R.P.Pandey, S/O Sh. H.P.Pandey, Yard Master, Under Sr. Station Manager, Northern Railway, New Delhi.

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(By Advocate: Sh. P.M.Ahlawat)

O R D E R (ORAL)

Hon'ble Mrs. Lakshmi Swaminathan, M (J):

The applicant is aggrieved by the revised seniority list issued by the respondents which they have stated has been issued as a result of the decision of the Hon'ble Supreme Court in S.L.P.(C) No.6448/87 (R.K. Sabharwal & Ors. Vs. State of Punjab & Ors.), vide their letter dated 9.11.96 (Annexure A-1).

2. According to the applicant, he has not been assigned correct seniority in the aforesaid seniority list in the grade of Rs.1600-2660/- as Yard Master (YM). The brief relevant facts of the case are that the applicant was selected as Assistant Yard Master (AYM) and posted under the Senior Station Master, Northern Railway w.e.f. 7.6.91. He was further promoted as YM in the grade of Rs.1600-2600/- w.e.f. 17.11.93. According to him, Respondent 2 had issued a seniority list on 14.6.95 in which the applicant's name was at Sl.No.19, while that of Respondent 4 was at Sl.No.20 and Respondent 5 was at Sl.No.32. In other words, these respondents were shown junior to the applicant as YM. He has also impleaded private Respondents 3-10, whom he states, have been given wrong seniority over him as YMs. Sh. B.S.Mainee, learned counsel for the applicant has submitted that in order to fix the seniority, it is necessary to know the date of appointment or the date of assessment of ^{the suitable} ~~offices~~ offices.

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of the particular persons. He has correctly pointed out that in the reply filed by the respondents, for example, the seniority of Sh. Virender Singh, Respondent 5, the respondents have not stated the date of his appointment as YM, but have only referred to the training held at Zonal Training School (ZTS), Chandausi w.e.f. 13.4.92 to 10.7.92. In the rejoinder filed by the applicant, it has been stated that while the applicant was promoted as YM in the grade of Rs.1600-2660/- w.e.f. 17.11.93, Sh. Virender Singh, Respondent 5, who came on mutual transfer to Delhi Division after completing his Apprentice Course and had joined earlier ^{in 1993} the Ambala Division, had done so only some time in December, 1993, in other words, after the applicant had been appointed as YM on regular basis on 17.11.93. Similarly, he has also pointed out that in the case of the other respondents, who have been impleaded as private respondents, the official respondents have not cared to give the actual date of appointment of these persons as YMs.

3. Sh. B.S.Mainee, learned counsel for the applicant has also brought to our attention a recent order of the Tribunal in Raj Kumar Kakkar Vs. Union of India & Ors. (OA-1418/96), decided on 11.4.2000. In this case, Sh. R.S.Dubey, YM had also been impleaded as Respondent 3, who has ~~also~~ ^{also} been impleaded as Respondent 3 in the present OA. In the Tribunal's order dated 11.4.2000 in OA 1418/96, certain observations have been made which have ^a bearing on the facts in the present case also. In that case, it has been observed that Respondent-3 was continued alongwith other ASMs and on

their request for change of category that was permitted in the cadre of YM grade Rs.1400-2300/-. As Respondent 3 and other personnel were not eligible to appear in the selection for the post of AYM, special permission was sought for them to appear in the selection for the post of AYM. The Tribunal has held that "However, Respondent-3 (Sh. R.S.Dubey) without appearing in the selection for the post of AYM was given officiating promotion as YM grade Rs.1600-2600 vide notice dated 17.11.93." According to the applicant, it was further held that the Respondent 3 has not yet cleared the selection process for AYM, despite the fact that he had cleared P-16 Course, he was, therefore, to be treated on temporary and adhoc basis, pending selection. Accordingly, it was held that Respondent 3 will not be allowed to be treated as senior to the applicant in the grade of Rs.1400-2300/- or Rs. 1600-2660/- as per Annexure A-6 order dated 5.7.95, in that case. In the result, OA 1418/96 was allowed.

4. It is not disputed by the learned counsel for the parties that Respondent 3 in OA 1418/96 is also the same person who is Respondent 3 in the present OA. It is also relevant to note that according to the submissions of the official respondents in OA 1418/96 since Respondent 3 had been appointed as AYM in public interest along with five others, they were treated as being on regular basis as AYM in the grade 1400-2300. Sh. B.S.Mainee, learned counsel has submitted that those five other persons, also mentioned in the other OA, are/impleaded as respondents in the present OA, namely, respondents 6-10.

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5. We have seen the reply filed by the respondents and heard Sh. P.M.Ahlawat, learned counsel for the respondents. On perusal of the reply filed by the official respondents, we find force in the submissions made by Sh. B.S.Maine, learned counsel that the relevant dates on which the private respondents have been appointed on regular basis as YMs in their respective Stations, have not been categorically given by the respondents. This ought to have been done by them as the main issue raised in this case is one of seniority which is directly dependent on the dates of appointment of the concerned officials in the posts on regular basis. It is also noted that in the impugned order dated 9.11.96, the respondents have themselves stated that the seniority is subject to revision, if any, new facts come to light later on. The judgement of the Tribunal dated 11.4.2000 in OA 1418/96 (Supra) has a direct bearing on the issue of seniority raised in this OA. Therefore, taking note of the above lacuna in the reply filed by the respondents, we think it appropriate to dispose of this OA with the following directions:-


Respondents 1 & 2 shall revise the seniority list of YMs in the grade of Rs.1600-2660/- in accordance with the relevant Rules and instructions, keeping in view the above observations. Necessary action in this regard shall be taken within a period of three months from the date of receipt of a copy of this order with intimation to the applicant. It is made


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clear that in the meantime, the respondents shall not adversely affect the interests of the applicant.

No order as to costs.


(H.O. Gupta)
Member (A)


(Mrs. Lakshmi Swaminathan)
Member (J)

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