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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO. 656/2000

Tuesday, this the 16th day of July, 2002

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble S.A.T. Rizvi, Member (A)

Laxman Dutt Sharma
S/o Shri Inderman Sharma
R/o 1532/28, Naiwala, Karol Bagh,
New Delhi - 110 005
Working as Painter Grade-II,
Motor Workshop, Tilak Bridge,
Northern Railway,
New Delhi - 110001

..Applicant

(By Advocate : Applicant in person)

Versus

Union of India through

1. General Manager,
Northern Railway, Baroda House,
New Delhi
2. The Chief Mechanical Engineer,
Headquarter Office Northern Railway,
New Delhi
3. Shri Ram Khilawan,
Working as Welder Grade-I,
Under Senior Section Engineer (Motor),
Motor Workshop, Tilak Bridge,
New Delhi

... Respondents

(By Advocates : Shri Rajinder Khatter)

O R D E R (ORAL)

By S.A.T. Rizvi, Member (A):

This case is listed under regular matters at serial No.2 as part-heard. Being a part-heard matter, we do not find it proper to adjourn the case further even though the applicant made a request to that effect. However, we have heard him also.

2. When this matter came up before us for hearing on 26.9.2001, the matter could not be proceeded with due to lack of clarity with regard to the issue of seniority
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and also in respect of issues highlighted by the learned counsel appearing for the applicant. We had accordingly directed the learned counsel for the applicant to re-formulate the issues as clearly as possible for which one last opportunity was given to him with a clear indication that if he failed to do so, the present OA would become liable to be dismissed as not maintainable in law. Like-wise, Shri Rajinder Khatter, learned counsel for the respondents was informed to place before us the relevant rules which went to support the contention of the respondents that the seniority of miscellaneous category Artisan staff is determined on the basis of the total length of service in all posts included under the miscellaneous category. Neither Shri K.K. Patel, learned counsel for the applicant, who has not appeared today, has clarified the issues nor has Shri Rajinder Khattar, learned counsel for respondents been able to place before us the relevant rule position with regard to the determination of seniority. We recall, however, that the learned counsel for the applicant had not seriously disputed the submission made by the learned counsel for the respondents that seniority is to be determined in accordance with the total length of service when it comes to the railway personnel included in the miscellaneous Artisans category.

3. Having noted the above stated position of the case, we now proceed to consider the issue of limitation raised by the learned counsel for the respondents. We

will also, to the extent possible, try to deal with the

merits of the case on the basis of the pleadings on record.

4. First, we take the issue of limitation. The applicant had raised the very same issues which he has raised in the present OA in various representations he had filed way back in 1993. After considering the same, the respondents had issued a detailed letter dated 2/3.4.1993 (R-IV) by which the applicant's claim was rejected. Inasmuch as the same deals with the various dates of appointment of the applicant as well as respondent No.3 herein, on various posts included in the miscellaneous Artisans category, we find it convenient to reproduce the relevant portion of it as follows:

"1. As far as your claim of seniority over Sh. Ram Khilawan presently working as Welder Gr-I is concerned on going through the records, it was found that:

Sh. Ram Khilawan was first appointed on 21.7.73 as substitute Khallasi in Gr. Rs.196-232(RPS) whereas you were appointed on 20.11.74 as substitute Khallasi in Gr. Rs.196-232.

1.2 Sh. Ram Khilawan was put to officiate as Hammerman in Gr.Rs.260-400 w.e.f. 1.1.80 against the re-classified post whereas you were appointed to officiate as Painter in Gr. Rs.260-400 w.e.f. 29.7.93.

1.3 Sh. Ram Khilawan was put to officiate as Black Smith in Gr. Rs.1200-1800 w.e.f. 5.5.84 whereas you were put to officiate as Painter in Gr. II Rs.1200-1800 w.e.f. 30.8.90.

1.4 Sh. Ram Khilawan was again put to officiate as Welder in Gr. Rs.1320-2040 w.e.f. 30.8.90.

The above promotions of Shri Ram Khilawan and yours were as per procedure laid down for the promotion of the miscellaneous category of the

staff by the competent authority and in consultation with the establishment branch and as such your claim of seniority over Shri Ram Khilawan has no locus-standi.

1.5 Your promotion from Gr. III to Gr. II was as painter and not as Black Smith. The Black Smith written in your promotion letter is due to some clerical mistake, which is being corrected by issuing a corrigendum.

1.6 As far as the inter-se-seniority of Black Smith, Hammerman etc. is concerned, it has been done as per approved channel of promotion of misc. categories of staff and as already explained under para 1 above. You are junior to Shri Ram Khilawan the then Hammerman and as such your claim for seniority over him as no locus-standi."

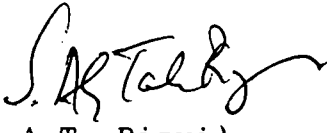
5. The applicant though aggrieved by the aforesaid letter (R-IV) has approached this Tribunal belatedly in April 2000 by filing the present OA. Thus, there has been a delay of around six years in approaching the Tribunal. Meanwhile, a provisional seniority list has been issued by the respondents on 7.7.1999 (R-II) in which the respondent no.3 has been shown at serial no.31 under Misc. Category Grade-I (Scale Rs.4,500 - 7000/-), and the applicant at serial no.32 under Misc. Category Grade-II (scale Rs.4000 - 6000/-). In this list, the dates of initial appointment of respondent no.3 and the applicant have respectively been shown as 21.7.1973 and 20.11.1974. The learned counsel appearing on behalf of the respondents submits that since seniority in miscellaneous Artisan category is to be counted from the date of initial appointment, respondent no.3 herein is found to be senior compared to the applicant.

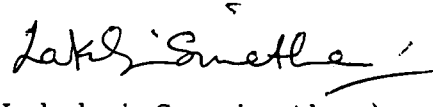
6. The learned counsel for respondents has also drawn our attention to several other seniority lists

issued from time to time in each of which the applicant has been shown as junior to the respondent no.3. For instance, in the seniority list issued in 1978 (R-7), while the respondent no.3 has been shown at serial no. 21, the applicant has been shown at serial no.30. Similarly, in the seniority list issued on 12.4.1994 (R-8), the applicant is placed at serial no.3 while the respondent no.3 is placed at serial no.2. In the seniority list issued in 1986 (page 37 of the paper book) again, the respondent no.3 has been shown as senior to the applicant. Respondent no.3 is placed in that list at serial no.2 under SK. GR.II Rs.330-480, whereas the applicant has been shown at serial no.2 in SK. GR.III Rs.260-400/-. Thus, the applicant has all along been treated as junior to the respondent no.3. He has not disputed any of the aforesaid seniority lists excepting the one dated 7.7.1999. There is no merit in his claim in respect of the aforesaid seniority list of 7.7.1999, inter alia, for the simple reason that all that he has to say against the aforesaid seniority list was already submitted by him before the respondents way back in 1993 when, after a proper and careful consideration of the matter, the respondents issued a detailed and reasoned rejection letter (R-IV) on 3.4.1993.

7. In view of the foregoing, the OA is dismissed both on the ground of limitation as well as on merit.

No costs.


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


(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)

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