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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO. 983/89

Date of Decision: 3.1.1991

Shri Om Prakash & Others ...Applicants

Versus

Union of India ...Respondent

Coram:

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the applicants : Shri R.L. Sethi, Counsel

For the respondents : Shri P.S. Mahendru, Counsel

(Judgement of the Bench delivered by Hon'ble  
Mr. I.K. Rasgotra, Member (A))

S/Shri Om Prakash, Jasbir Singh and Sant Ram,  
Fuel Issuer, Northern Railway, Delhi Division have  
filed this application under Section 19 of the  
Administrative Tribunals Act, 1985, aggrieved by the  
exclusion of their names from the list of candidates  
circulated under letter No.561E/80/Pt.I/P-4 dated  
19.4.1989 (Annexure A-1) for conducting suitability  
test for the post of Senior Clerk (Rs.1200-2040) in  
the Mechanical seniority group.

The applicants were group 'D' employees and  
were initially promoted as Fuel Issuer (Group 'C') in  
the Mechanical seniority group and later regularised  
as per the details given below:-

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| Name            | Date of Promotion to Class III Post |                  |
|-----------------|-------------------------------------|------------------|
|                 | On adhoc basis                      | On regular basis |
| 1. Om Prakash   | 21.1.1980                           | 7.1986           |
| 2. Jasbir Singh | 5.6.1983                            | 7.1986           |
| 3. Sant Ram     | 4.6.1983                            | 7.1986           |

The period of their adhoc appointment however was not reckoned for assigning (seniority in Group 'C') after their service was regularised. Consequently they were not called for the suitability test scheduled to be held on 31.5.1989 for the promotion post of Senior Clerk. When the case came up for admission and interim relief, the Tribunal vide its order dated 11.5.1989 directed the respondents to allow the applicants to appear provisionally in the suitability test scheduled to be held on 13.5.1989.

2. The respondents in their counter affidavit have submitted that as per the order of the Tribunal the applicants were allowed to appear provisionally in the said examination. Shri Om Prakash, applicant No.1 was declared suitable for promotion as Senior Clerk. However, applicant No.2 and applicant No.3 S/Shri Jasbir Singh and Sant Ram respectively were declared unsuccessful.

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3. The applicants have prayed for the reliefs that the respondents should be directed to:

- a) relate back their regularisation to the post of Fuel Issuer/Traffic Attendant to the date of their initial adhoc appointments;
- b) allow them to take the suitability test for the post of Senior Clerk.

3. Shri Jasbir Singh and Shri Sant Ram, applicant No.2 and applicant No.3 have been declared unsuccessful in the suitability test for the post of Senior Clerk which they were allowed to appear ~~in~~ under the direction of the Tribunal. They cannot, therefore, be provided any relief for the post of Senior Clerk. However, since all the three applicants were promoted initially on adhoc basis from Group 'D' to Group 'C' followed by regularisation in July, 1986, they are entitled to the benefit of reckoning their seniority from the date of initial appointment in Group 'C' on adhoc basis in terms of paragraph 47 of the Full Bench judgement of the Tribunal delivered on 5.5.1989 (T-844/86) in the case of Jetha Nand and Others v. Union of India and Others.

Shri Om Prakash, applicant No.1 who has been declared successful in the suitability test held for the post of Senior Clerk shall reckon his service in Group 'C' w.e.f. 21.1.1980 and shall be entitled to consequential benefits e.g. promotion to the grade of Senior Clerk (Rs.1200-2040), fixation of pay. Applicant No.2 and

applicant No.3 shall also be entitled to reckon their seniority w.e.f. the dates they were promoted as Fuel Issuer/ Telephone Attendant viz. 5.6.1983 and 4.6.1983 respectively.

The respondents are directed to comply with the directions as above within a period of four weeks from the date of communication of this order.

There will be no order as to costs.

*Amitav Banerji*  
(I.K. RASGOTRA)  
31/1/91  
MEMBER (A)

*AB*  
3.1.91  
(AMITAV BANERJI)  
CHAIRMAN

'SKK'