

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad, this Monday, the 14th day of December, 2020

Original Application No. 330/00054/2017

Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Mr. Navin Tandon, Member (A)

Piyush Trivedi, aged about 53 years,
S/o Late G.K. Trivedi, Presently posted as Senior Law Officer,
North Central Railway, Headquarter Subedarganj, Allahabad.

. . .Applicant

By Advocate: Shri M.K. Upadhyay (In Court)

V E R S U S

1. Union of India through its Secretary, Railway Board, Rail Bhawan, New Delhi.
2. Addl. Member Staff, Railway Board, Rail Bhawan, New Delhi.
3. Director Establishment, Railway Board, Rail Bhawan, New Delhi.
4. Joint Secretary (G) Railway Board, New Delhi.
5. General Manager, North Central Railway, Headquarter Subedarganj, Allahabad.
6. Deleted

. . .Respondents

By Advocate: Shri Shesh Mani Mishra (In Court)

Reserved on 02.12.2020

O R D E R

By Hon'ble Shri Navin Tandon, Member (Administrative)

Through Video Conferencing.

1. The applicant is aggrieved by his position in the seniority list of Group 'B' officer of Law Department of Indian Railways.

2. The undisputed facts of the case are as under: -

2.1 The applicant was selected through Railway Recruitment Board Kolkata as Law Assistant in South Eastern Railway (for brevity, SER hereinafter) Kolkata on 14.6.1990. He was promoted as Chief Law Assistant on 31.3.1994 and as Estate Officer cum Assistant Law Officer in Group 'B' on 11.11.1999.

2.2 He came on transfer to North Central Railway (for brevity, NCR hereinafter) in the year 2004, wherein he was posted as Assistant Law Office (Annexure A-10) on 20.05.2004.

2.3 Railway Board issued orders on 20.11.2006 (Annexure R-5) for his transfer from SER to NCR on his own request.

2.4 Railway Board modified the procedure for conducting DPCs for promotion from Group 'B' to Group 'A' of organised services vide letter dated 13.05.2011 (Annexure A-15) wherein a system of common eligibility list of All India Basis was to be prepared.

2.5 Railway Board has circulated the provisional list of Group B officer of law department on 03.02.2014 (Annexure A-1) wherein the name of the applicant is being shown at serial no.18 and date of induction into Group 'B' as 20.11.2006. On his representation, Railway Board vide letter dated 17.11.2014 (Annexure A-2) has assigned his seniority w.e.f. 21.05.2004, the date on which he joined as Assistant Law Officer in NCR.

2.6 The subsequent representation of the applicant regarding seniority position has been rejected by the Railway Board vide letter dated 22.03.2016 (Annexure A-3).

3. Apart from the above, the applicant has also raised the following points in the original application: -

3.1 Railway Board had prepared and sent to UPSC a seniority list of Group B officer of Law Department on All India Basis for making regular promotion of Group 'A' for the year 2010-11, in which his name was appearing at serial no.10 as per his date of induction to Group 'B' as 15.11.1999. This information received through RTI from Railway Board has been attached as Annexure A-16 (Para 4.25 of the OA).

3.2 Railway Board vide letter dated 16.12.2005 (Annexure A-14) has also mentioned that the service rendered by Group 'B' Officers in the previous unit should be counted for the purpose of promotion in case of transfer to another unit on bottom seniority.

4. The applicant has prayed for the following reliefs: -

"8. Relief Sought

In view of the facts mentioned in paragraphs No.4 and 5 the applicant prays for the following relief/s :-

I. This Hon'ble Tribunal may graciously be pleased to quash the orders dated 03.02.2014, 17.11.2014 and 22.03.2016 passed by the respondent No.3 and 4 (Annexure No.A-1, A-2 and A-3 to this original application).

II. This Hon'ble Tribunal may be pleased to direct the respondents to restore the seniority list of Group 'B' officers of law department of Indian Railway as on 01.01.2012 after considering the date of induction of the applicant in Group 'B' cadre as on 15.11.1999 instead of 20.11.2006 above to the name of Respondent No.5.

III. This Hon'ble Tribunal may be pleased to direct the respondents to process the Group 'A' promotion in the law department of Indian Railway to UPSC only after correcting the seniority position of the applicant in the impugned list dated 01.01.2012 pursuant to letter dated 03.02.2014.

IV. Any other relief, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case may be given in favour of the applicant.

V. Award the costs of the original application in favour of the applicant."

5. The respondents in their reply have submitted that the applicant had submitted his request to be accepted at bottom seniority in NCR as Assistant Law Officer Group 'B' vide his application dated 16.06.2006 (Annexure R-2). Accordingly, Railway Board has issued the order dated 20.11.2006 (Annexure R-5) wherein it has been stated that the applicant should be assigned bottom seniority in terms of Ministry of Railways letter dated 03.12.1977. The provisional integrated seniority list of Law Department of Indian Railways as on 01.01.2012 and 01.01.2013 was prepared by the Railway Board for the limited purpose of induction of eligible group 'B' officers of Law Department to Group 'A' (in senior Scale) vide letter dated 03.02.2014. The contents of para 4.25 of the original application have been denied as being incorrect.

5.1 The respondents in this reply have mentioned the Annexure Number as Annexure 1, 2, 3 etc. To avoid confusion, the annexures of the respondents are being referred to as Annexure R-1, R-2, R-3 etc. as specified in Rule 12(3) of CAT (Procedure) Rules 1987.

6. The applicant has filed rejoinder in which the points in the original application have been reiterated. He joined the Law Department of SER where he continued to work and have remained in Law Department throughout. Therefore, his seniority of Group 'B' should be counted w.e.f. 15.11.1999.

7. Heard the arguments of learned counsel of both the parties and perused the pleadings available in PDF form. The arguments were mainly on the lines of the pleadings submitted by the respective parties. Learned counsel for the applicant also submitted that a

similar case has already been decided by Jabalpur Bench of the Tribunal in **Arjun Singh vs Ministry of Railways** (OA No.200/435/2012) and the same has also been upheld by Hon'ble High Court of Madhya Pradesh in MP No.2842/2019.

FINDINGS

8. The extracts of relevant Railways Board's communications on the subject are given below:

8.1 Railway Board's notification dated 03.12.1977 (Class II officers have subsequently been redesignated as Group 'B' officers):

"The cadres of Class II officers being localized, their Inter-railway transfers are not normally made. The Railway Ministry have considered the matter and decided that in exceptional circumstances, if a Class II officer is transferred from one Railway to another at his own request, he will be assigned the bottom seniority in class II on that Railway on the date he takes over there and he will also lose all the claims for promotion to the higher grade in his parent Railway. He will have to given an undertaking to this effect before his request for transfer is acceded to."

8.2 Railway Board's letter dated 16.12.2005 (Annexure A-14):

"The matter has been examined and it has been decided that the service rendered by such officers in Group 'B' in the previous unit, may be reckoned for the purpose of further promotion in the new unit, to the extent it does not exceed the Group 'B' service of his immediate senior in the new unit."

8.3 Railway Board's communication dated 13.05.2011 (Annexure A-15):

"3. The issue of improving the existing system has been under consideration of Railway Board for quite sometime. After detailed deliberations with IRPOF, the Board have decided that a common Eligibility List of Group 'B' officers of each organized service may be prepared on All India Basis, in the order of their dates of induction into Group 'B' without

disturbing the prevailing inter-se Group 'B' seniority on each Railway/Unit, instead of preparing the same Railway-wise as per the existing practice."

9. It is undisputed that the applicant has accepted bottom seniority in Law Department of NCR by his own application dated 16.06.2006 (Annexure R-2) as well as the Railways Board's letter dated 20.11.2006 (Annexure R-5) transferring him to NCR on own request. Regarding his seniority in NCR, perusal of the seniority list of Group 'B' officers prepared by Railway Board and supplied to the applicant (Annexure A-16) through RTI indicates that Shri A.K. Mishra (Group 'B' 31.07.1997) is the only officer of NCR above the applicant. This is also cross verified by letter dated 19.10.2006 (Annexure R-4) from NCR to Railway Board, the extract of which are as under: -

"The cadre of Law Deptt. on N.C. Railway issued by Board vide letter No.2003E(GC)12-14Pt.1(06) dated 09.03.2006 wherein one senior scale and two junior scale posts are available against which Shri A.K. Mishra, Group 'B' officer of Law Department of SCR Presently working in CORE has been absorbed over NCR vide Board's letter No.E(O)II-2004/AE/367 dated 07/08.06.2006 but he has not yet joined over NCR."

9.1 From the above, it is clear that the applicant was junior only to Shri A.K. Mishra in the Law Department NCR when he joined NCR. Date of induction to Group 'B' of Sri A.K. Mishra is shown to be 31.07.1997 in the integrated seniority list for the year 2010-11 (Annexure A-16). Though the respondents in their reply have denied para 4.25 as incorrect, no reason have been given for stating information received under RTI as untrue. In any case, this information is only being used to show that the applicant is junior to Sri A. K. Mishra, whose date of induction to Group 'B' has been shown as 31.07.1997.

10. The decision in **Arjun Singh (supra)** was authored by one of the Members of this Bench (Administrative Member). The relevant paragraphs of the order of the said original application are extracted below: -

"18. Now, let us examine the provisions of letter dated 13.05.2011 (Annexure A-22), wherein the concept of common eligibility list on All India basis has been prepared. Para 3 of the letter very clearly states that the common eligibility list of Group B officers is to be prepared on All India Basis, in the order of their dates of induction into Group 'B' without disturbing the prevailing inter-se Group 'B' seniority on each Railway/Unit. A bare reading of this stipulation clearly indicates that the placement of an officer in the integrated All India Seniority list would be on the basis of date of induction into Group B with the proviso that the prevailing inter-se seniority on each Railway Unit should not be disturbed. This proviso is obviously to take care of instances of transfer of Group B officer from one Railway unit to other at own request on bottom seniority.

19. In the case of the applicant, his date of induction into Group B service is undisputedly 01.02.2002. He came on transfer to WCR on bottom seniority. The date of induction of person in Group B, who is just senior to the applicant in WCR, has been shown as 25.07.2000. The applicant cannot go above him. Thus, by keeping his date of induction in Group 'B' as 01.02.2002, he retains his original date of induction and does not disturb the inter-se seniority in WCR.

20. After meeting all the stipulation in the Railway Board's letter dated 13.05.2011, it is clear that the applicant's name in the All India integrated seniority list should have been on the basis of his induction in Group B, i.e. 01.02.2002.

21. Accordingly, the O.A is allowed. The respondents are directed to modify the seniority list by considering the applicant's date of induction to Group B as 01.02.2002. This exercise should be completed within a period of 60 days from the date of receipt of a certified copy of this order. In case officers junior to the applicant have already been considered/inducted into Group A service, the review DPC should be conducted within the next 60 days thereafter. No Costs."

11. It has also been drawn to our notice that the said order of the Jabalpur Bench of the Tribunal has also been upheld by the Hon'ble High Court of Madhya Pradesh, Jabalpur in MP 2842/2019, the operating part of which reads as under:

*"As the decision was taken by the Railway Board to evolve a common eligibility list of Group-B officers in the order of their dates of induction into Group-B services without disturbing prevailing interse Group-B seniority of each Railway/Unit, the conclusion arrived at by the Tribunal on the basis of said circular cannot be faulted with.
In view whereof, no indulgence is caused. Petition fails and is dismissed."*

12. We find that the present case under consideration is squarely covered by **Arjun Singh (supra)**.

13. Accordingly, the original application is allowed. The impugned seniority list dated 03.02.2014 (Annexure A-1) qua the applicant as well as orders dated 17.11.2014 (Annexure A-2) and dated 22.03.2016 (Annexure A-3) are quashed and set aside. The impugned All India Seniority List of Law Department be modified by considering the applicant's date of induction to Group 'B' as 15.11.1999. This exercise should be completed within a period of 60 days from the date of receipt of a certified copy of this order. In case, officers juniors to the applicant have already been considered/inducted into Group 'A' service, the review DPC for inducting the applicant into Group 'A' should be conducted within the next 60 days thereafter. No Costs.

(Navin Tandon)
Member (Administrative)

(Justice Vijay Lakshmi)
Member (Judicial)

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