

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

(P)

O.A. No. 1340/87  
TAXXN.

199

DATE OF DECISION 20.7.1990.

Shri Raghbir Singh &amp; Others Petitioner

Shri D.N. Goburdhan Advocate for the Petitioner(s)

Versus

Union of India through the Respondent

Secretary, Ministry of Railways &amp; Others

Shri S.N. Sikla Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yu*
2. To be referred to the Reporter or not ? *yu*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Mo*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *Mo*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. D.K. Chakravorty, Administrative Member)

The applicants in this application have worked in regular posts of Group 'D' category in the Delhi Division of Northern Railway since 1973-74.

2. The grievance of the applicants is that they have not been regularly appointed in Class III posts and they have also not been given their due seniority in Class III posts.

3. The facts of the case in brief are as follows. The applicants, who are permanent Class IV employees have worked in Class III posts for several years. The applicants have stated that they had passed a rigorous examination in 1978 before they were asked to work in Class III posts. They have been given increments in Class III posts and they have also drawn all the benefits of

Class III posts. However, they have not been given their due seniority. They have prayed that having worked in Class III posts for over 8-9 years, they are entitled to be regularised in Class III posts. They have also alleged that persons junior to them have been given higher seniority in Class III posts.

4. The respondents have contended in their counter-affidavit that the applicants are working in the construction project unit of SSTE/PS New Delhi, which is purely a work-charged organisation and does not constitute part of the open line. They were promoted on local ad hoc arrangements to skilled category in 1978 and 1981 in the construction project to meet the exigencies of the construction project and they did not qualify in any trade test conducted by the open line. They were promoted with the clear understanding that they would have no right or claim for absorption and inter-seniority in the skilled categories in maintenance organisation, i.e., open line and in any other construction project unit except that of SSTE/PS New Delhi. In view of this, the question of seniority of the applicants in Group 'C', i.e., Class III did not arise. They have annexed as Annexures R-I and R-II at pages 33-34 of the Paper Book, the notices issued regarding the promotion of employees on local ad hoc basis. Though the applicants are drawing wages and benefits of Class III, they have not been given seniority in Class III. Seniority in Class III will be

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given ~~in~~ open line after the applicants qualify the prescribed trade test conducted by open line. The respondents have also denied that any similarly situated employees junior to the applicants have their seniority linked with Class III Grade in open line. They have further stated that out of the 7 applicants only 5 have expressed their willingness for trade test of Hammermen held in May, 1984. Applicant Nos. 5 and 7 who were senior-most among them were called for this test, but they did not qualify in the test.

5. The respondents have also stated that a number of persons senior to the applicants are still working in Class IV in the parent cadre. Since they are presently working on deputation in construction project, maintaining their seniority and lien in the original Class IV posts, their seniority is rightly reckoned in Class IV.

6. We have gone through the records of the case carefully and have considered the rival contentions. The fact that the applicants had undergone a trade test before promotion on local ad hoc basis to Class III posts does not by itself entitle them for regular appointment in Class III category. The trade test was only for the purpose of ad hoc appointment. The applicants have not produced any evidence in support of their contention that they have qualified in the prescribed <sup>trade</sup> test conducted by open line for promoting them in Class III category. In the absence of any documentary

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evidence to substantiate their claim, we are of the opinion that the applicants are not entitled to the reliefs sought in the present application.

7. We, however, direct the respondents that the applicants should also be called for undergoing the trade test conducted by the open line in accordance with the relevant rules and instructions and in case they qualify the prescribed trade test, they should be promoted in Class III category in the open line and given due seniority.

The parties will bear their own costs.

*D. K. Chakravorty*

(D. K. CHAKRAVORTY)  
MEMBER (A) 29/7/1990

*P. K. Kartha*  
20/7/90

(P. K. KARTHA)  
VICE CHAIRMAN (J)