

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1667/87  
T.A. No.

198

DATE OF DECISION 29.5.1989

R.K. Kapoor

Petitioner

Shri J.K. Bali,

Advocate for the Petitioner(s)

Versus

Union of India & Ors

Respondent

None

Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. B.C. Mathur, Vice Chairman X

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? NO
3. Whether their Lordships wish to see the fair copy of the Judgement ? NO
4. Whether to be circulated to all the Benches? NO

( D.S. Mishra )  
Member (A)

AB  
(Amitav Banerji)  
Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL  
principal Bench

O.A. No. 1667 /87

Date of Decision 29.5.1989

Shri R.K. Kapoor  
vs

... Applicant

Union of India & Ors

... Respondents

CORAM:

Hon'ble Mr. Justice Amitav Banerji, Chairman  
Hon'ble Mr. D.S. Mishra

For the Applicant .. Shri J.K. Bali, Advocate

For the Respondents .. None

(Judgement of the Bench delivered by  
Hon'ble Mr. Justice Amitav Banerji, Chairman)

The Applicant, Shri R.K. Kapoor was an employee working as Assistant Station Master in the Northern Railway. He had prayed for mutual transfer with one Shri Netra Pal Singh, ASM of Delhi Division. Their transfers were approved by the authorities but the Applicant claims that he has not been given proper placing in the seniority list and the order passed by the General Manager, Northern Railway dated 4.8.1987 has not been complied with. The proceedings are ex-parte against the Respondents and none has appeared on behalf of the Respondents even today.

The facts in brief are as follows: The Applicant joined Railway Service on 1.9.1949 as Signaller Grade (Rs. 60-150) on Allahabad Division of Northern Railway. He was promoted and worked as ASM from 2.7.1956. He was provisionally confirmed in that grade on 2.9.1957 and that grade later became Rs. 330-560. The mutual exchange with

Shri Netra Pal Singh, ASM in the same grade as the Applicant was sanctioned by DRM Delhi's letter No. 940E/100/47(Ei) dated 10.4.1976. It may be mentioned here that the date of appointment of Shri Netra Pal Singh in the Railway was 25.6.1964. The Applicant thereafter joined the Delhi Division on 25th April, 1977. Subsequently, he was promoted as ASM Grade 425-640. His case was that in Delhi Division he was entitled to the same seniority as enjoyed by Shri Netra Pal Singh whom he replaced but he was not given the said seniority. He then made several representations to the authorities concerned. Finally, he made a representation to the General Manager, Northern Railway (Annexure A-6) that he may be given his promotion according to the rightful seniority. He also claimed that he was going to reach the age of superannuation in November, 1988. The General Manager by his letter dated 4.8.1987 (Annexure A-1) replied that the Applicant had been assigned correct seniority of Netra Pal Singh whose date of appointment is 25.6.1964 i.e. below all these ASMs who were appointed on or before 25.6.1964.

Learned counsel for the Applicant very fairly contended that the Applicant was only interest at present that the order passed by the General Manager, Northern Railway dated 4.8.1987 be carried out by the authorities concerned. In the seniority list he had been shown at Serial No. 400 whereas his name should have come after Shri Faqir Chand Kataria and before Shri Bal Mukand.

Shri Faqir Chand Kataria joined the Railway Service on 13.6.64 and Shri Bal Mukand on 30.6.64. As noticed earlier, Shri Netra Pal Singh had joined service on 25.6.64. Consequently, he had to be placed between the two persons mentioned above at Serial No. 238 and 239. His placement at Serial No. 400 was wrong and incorrect and did not comply with the orders of the General Manager. The Applicant has filed a copy of the Seniority List of the ASMs in the grade Rs 330-560/425-640 dated 2.1.85. This order was passed by the Senior Divisional Personnel Officer, Northern Railway, New Delhi. The above letter (Annexure A-7) however states that the seniority list is provisional subject to revision at any time if any new facts come to light later.

Learned counsel for the Applicant also urged that the Applicant has since retired in November, 1988. If he had been given proper placing in the seniority w.e.f. 1985 he would have been entitled to promotion to a higher grade and as such he prays that when the seniority list is corrected, he should also get the consequential benefits of higher pay, arrears of pay and promotion, if any.

We have heard learned counsel for the Applicant and perused the material on the record. We have no manner of doubt that the Applicant deserves to be placed in place of Shri Netra Pal Singh in the seniority list and the Netra Pal Singh would get the seniority placing of

the Applicant. There is also no doubt that the Applicant was at least 15 years senior in service than Shri Netra Pal Singh. By the mutual transfer he lost his position in the seniority list. If he had stayed on in Allahabad Division, his position in the seniority list would have been after Serial No. 25 who joined service on 15.8.1949. It is, therefore, apparent that the Applicant did not gain anything seniority-wise by the mutual transfer but at least he was entitled to the seniority of the person with whom he changed position. According to that, his position should have been between the two persons mentioned at Serial No. 238 and 239. The General Manager of the Northern Railway has clearly given a direction to this effect in his letter dated 14.8.87" Accordingly, he was assigned seniority position of Shri Netra Pal on Delhi Division i.e. below all those ASMs who were appointed on or before 25.6.1964". This letter had not been complied with by the Delhi Division of the Northern Railway.

It is, therefore, apparent that the seniority list suffers from errors and needs to be corrected in accordance with the orders of General Manager, Northern Railway. As a matter of fact, we were wondering why this Application has been made by the Applicant. He should have moved the Railway authorities and DRM for appropriate orders after the orders passed by the General Manager, Northern Railway. He has approached the Tribunal for orders presumably because there was no response to the letters submitted by the

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Applicant dated 16.2.87 (Annexure A-3), dated 16.2.87 (Annexure A-4) and 13.4.87 (Annexure A-6).

In view of the above, we are constrained to hold that the Delhi Division of the Northern Railway has failed to comply with the orders of the General Manager. We, therefore, direct the Respondents to give effect to the order dated 4/11.8.1987 passed by the General Manager and correct the seniority list issued by the Senior Divisional Personnel Officer, Northern Railway, New Delhi correctly showing the placement of the Applicant in the seniority list between ASMs at Serial No. 238 and 239. We further direct that the Applicant will also be entitled to such consequential benefits by the said placement before his retirement including promotion, if any, and enhancement of pay or arrears of pay, if any. We order accordingly.

The Respondents are directed to implement the above order within a period of two months from the date of service upon the Respondents of a copy of this order and give the Applicant consequential benefits, if any within the above period of time. Since no one appeared to contest this Application, there will be no order as to costs.

  
( D.S. Mishra )  
Member (A)

  
(Amitav Banerji)  
Chairman