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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

CCP NO. 278/92

in

OA NO. 397/88

New Delhi this the 2<sup>nd</sup> day of March, 1994.

SHRI JUSTICE B.C. SAKSENA, VICE CHAIRMAN(J).

SHRI S.R. ADIGE, MEMBER(A).

S.N. Narula  
S/o Shri B.L. Narula,  
Presenting Officer,  
Railway Claims Tribunal,  
Delhi.

... Petitioner.

(in case Shri B.R. Sharma & Ors.)

By Advocate Shri B.S. Mainee.

Versus

1. Shri Masih Uzman,  
Secretary,  
Ministry of Railways,  
Railway Board, Rail Bhawan,  
New Delhi.

2. Shri Raj Kumar  
General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

... Respondents.

By Advocate Shri K.N.R. Pillai.

O R D E R

Shri Justice B.C. Saksena.

The petitioner was one of the applicants in O.A. 397/88. He had in the said O.A. sought that a direction be issued to the respondents to interpolate his name in the earlier panel of 1972-73 for Group 'B' post on the ground that he was eligible to appear but was ignored and persons junior to him have been called. A seniority list of the Transportation Department of the Northern Railway was revised during the year 1980

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to 1983 in compliance with the judgement of the Delhi High Court in Writ Petition filed by the direct recruits, Traffic Apprentices, against promotees of the department. On revision of the seniority, a supplementary selection was initiated in 1980, the result of which was announced in 1988. The original panel was drawn up for the year 1972-73. After the revision of the seniority, the applicant claimed that he was entitled to be interpolated in the said panel of 1972-73. On consideration of the relevant pleadings, this Tribunal by its judgement dated 3.12.91 rendered in O.A. No.397/88 and other connected O.As had made the following directions in respect of Shri Narula, the present applicant. The observation occurred in paragraph 20 of the order passed in the said O.A. It reads as under:

"In the conspectus of the aforesaid facts and especially keeping in view the position that S/Shri Narula, Gupta and Chadha had qualified in the test of 1978-79 we would direct that these three applicants should be considered for interpolation in 1972-73 panel if they are eligible according to their revised seniority and if they are also suitable according to their ACRs provided the vacancies existed. In determining the vacancies it has also to be kept in view that if a junior has been included in the panel whose grading was not higher than that of any of the three applicants or if any junior who would not have come in the zone but was included even with a higher grading than that of any of the applicants he would have no claim over the three applicants".

The respondents have filed their reply to the CCP. The case was taken up for hearing and it was found that there was no satisfactory material placed before the Tribunal from which it would gather as to whether the directions of this Tribunal have been faithfully complied with or not. Accordingly, by order passed on 20.1.1993 certain directions were issued to the respondents in the light of paragraph

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20 of the judgement. The direction was as follows:

"As the name of the petitioner is required to be interpolated in the 1972-73 panel, if he is eligible according to the revised seniority, the first thing that we should be in a position to examine is the position of the petitioner in the revised seniority. For the purpose of preparing a panel, an integrated seniority list of eligible candidates arranged according to their seniority was required to be prepared. Such a list should comprise the names of all persons who fall within the feeder category..."

It was also directed that the names of all persons forming the feeder category should be arranged in accordance with the relative seniority. The respondents submitted various seniority lists from time to time but it was found that they were wanting/for indicating specific particulars. Accordingly, further opportunity to file a complete seniority list was given. That is how we find that there are several replies on record filed by the respondents. In the reply, the respondents admitted that as far as the applicant is concerned, his case has been reviewed by the respondents. It was indicated that three conditions were laid down in the order passed by this Tribunal which read as under:

- (1) That the applicant according to his revised seniority position should be eligible for consideration;
- (2) If a junior has wrongly been included, he has to give way and/be removed from the panel and be replaced by the eligible and suitable senior; and
- (3) <sup>be</sup> should be suitable according to their ACRs provided there is a vacancy. It was indicated that the applicant fulfilled the eligibility.

The question of availability of vacancies did not stand in his way but it was stated that his case was considered by the Review Selection Board and since his ACRs were not upto the mark, he was not found fit to be interpolated in the 72-73 panel. However, in the subsequent reply, when a detailed

1202

(18)  
45

seniority list was filed, the applicant's eligibility to be considered for interpolation in the 1972-73 panel was disputed.

2. The learned counsel for the applicant vehemently urged that the respondents have been shifting their grounds. In the initial reply, as noted, they have not disputed his eligibility for being considered for interpolation in the panel but in the last reply they have even disputed the same. Considerable arguments were advanced by the learned counsel for the applicant on the basis of the averment in the various replies filed by the respondents. However, we do not consider it necessary to deal with the different positions in the pleadings. We have to consider whether on the basis of the material on record it has been established or not that the respondents have wilfully disobeyed to carry out the directions given in the order passed in the O.A. as far as the present application is concerned. We have already extracted the relevant observations in the said decision as far as the applicant is concerned. The respondents were directed to consider the applicant and two others for interpolation in 1972-73 panel if they are eligible according to the revised seniority and if they are also suitable according to their ACRs provided the vacancies existed. From the reply filed by the respondents, we are satisfied that they have carried out the directions and have considered the case of the applicant for interpolation in 1972-73 panel. Though, as noted hereinabove, the respondents have changed their initial stand that the applicant was eligible according to his revised seniority position for interpolation but have later indicated and given good reasons to show that according to the revised seniority position, he was not even eligible and did not find place within the zone for being considered in the 1972-73 panel. One significant fact which remains uncountered on

1302

(19)  
46

the part of the applicant is the reply of the respondents that the review Selection Committee have considered the applicant's case for such interpolation but because of his ACRs he was not found upto the mark and consequently could not be considered for being interpolated in the 72-73 panel. This Tribunal in its decision in the O.A. had clearly provided that the candidate for interpolation would be considered only <sup>if</sup> ~~after~~ <sup>he</sup> he is suitable according to the ACRs. The fact remains that he had been considered by the review DPC but because of the ACRs he was not found fit. The position has been explained in the reply. It was indicated that <sup>three</sup> ~~three~~ <sup>persons</sup> persons junior who on review DPC were included in the revised panel but the three had Very Good ACRs while the applicant, according to his ACRs, had only 'Good' Grading. We are satisfied on the material on record that the respondents have faithfully carried out the directions given in the O.A. in respect of the applicant and consequently we discharge the notice of contempt and dismiss the CCP. No order as to costs.

*S.R. Adige*  
(S.R. ADIGE)  
MEMBER (A)

*B.C. Saksena*  
(B.C. SAKSENA)  
VICE CHAIRMAN (J)

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