

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.2440/2004

New Delhi this the 17th day of July, 2006

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Mrs. Meera Chhibber, Member (J)

1. Ajay Kumar Sharma
S/o Shri Dev Karan Sharma
2. Akhlesh Kumar Sharma
S/o Shri Daya Shanker Sharma
3. Dharam Pal 'D'
S/o late Shri Dori Lal
4. Zakir Hussain
S/o Shri Lalla Shah
5. Rajendra Kumar
S/o Shri Babulal
6. Ram Bharosay
S/o Shri Makhan
7. Prem Pal Singh
S/o Shri Subedar Singh
8. Anil Sharma
S/o Shri T.C. Sharma
9. Nazir Hussain
S/o Shri Kaley Khan
10. Arvind Singh
S/o Shri Gajendra Singh
11. Jitendra Kumar
S/o Shri Jiya Lal
12. Mohd. Rais Beg
S/o Shri Rashid Beg
13. Ashok Kumar III
S/o Shri Pujan Prasad
14. Sant Singh
S/o Shri Ram Kishan
15. Rakesh Yadav
S/o Shi Mahabir Singh Yadav
16. Rajkumar Pandey
S/o Late Shri Dev Raj Pandey
17. Shri Ram
S/o Shri Diggaj Prasad.

-Applicants

All working as First Fireman/Diesel Asstt.

At Senior Section Engineer/Loco, Northern
Railway, Moradabad Division, Moradabad.

(By Advocate: Shri H.P. Chakravorti)

Versus

1. Union of India through
The Chairman, Railway Board,
The Principal Secretary to Govt. of India,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The General Manager,
Northern Railway, Baroda House,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway, Moradabad, U.P.

-Respondents

(By Advocate: Shri R.L. Dhawan with
Shri Gnan Mehta, APO/Moradabad)

ORDER (Oral)

Hon'ble Mrs. Meera Chhibber, Member (J):

By this OA, applicants 17 in number have sought the following relief:-

"8.1 to allow the OA and/direct the respondents to include or interpolate the names of the petitioners at appropriate place as per the panel position dated 6.8.1991 (Annexure A-1) in terms of Rule 302, 303 & 306 IREM-I, above the direct-recruits, who joined after empanelment of the petitioners, in the seniority list of First Fireman/Diesel Assistants Grade Rs.950-1500/3050-4590 of Moradabad Division, Northern Railway; by recasting the list published vide No. 727/8-E/EPI/Court/Seniority dated 23.8.04 while finalizing it after due consideration of their representation dated 9.6.2004 (Annexure A-1) and granting the restructuring benefits at par junior counterparts, w.e.f. 1.11.2003;

8.2 to grant any other appropriate relief as deemed just and proper by this Hon.Tribunal, as per facts and circumstances of the case besides costs and expenses of the present litigation".

2. Counsel for applicants submitted that applicants were selected and empanelled for the post of 1st Fireman from Fireman-II vide letter dated 6.8.91

(Annexure A-5) wherein their names figured at Sl. Nos.131,134,137,138,139,160,162,163,164,166,167,181,191,195,201,205 & 206

but in spite of that, their names have not been reflected in the seniority list anywhere till date. Counsel for applicants invited our attention to letter dated 26.05.2004 to show that applicant Shri Ajay Kumar Sharma was even informed that fresh seniority list will be issued in due course and the names of applicants



will be added at appropriate places (Annexure A-2) but in spite of it, even though respondents issued seniority list on 23.08.2004 pursuant to the directions given by Allahabad Bench of the Tribunal but in this seniority list also, for reasons best known to respondents, names of applicants were not interpolated even in this seniority list. According to applicants they ought to have been placed above Sl. No.427 in seniority list dated 23.08.2004. They even gave representation on 09.06.2004 but since no reply was being given to the applicants, they had no option but to file the present OA.

3. Respondents have submitted that a panel of promotee quota was formed on 6.8.1991 in which 206 candidates were placed on the panel but out of 206, only 184 were promoted. In the meantime, a panel of direct recruits, who were sent for pre-requisite training reported after completion of pre-requisite training in July-August 1993. They were regularized as per availability of vacancies but rest 58 candidates of panel dated 6.8.1991 could not be promoted due to non-availability of vacancies.

4. Respondents have also submitted that the seniority list of Diesel Assistant dated 5.12.95 has been revised as per direction passed by the Allahabad Bench of the Tribunal in OA No.371/96 issued on 23.8.2004 in which only those names were reflected who were in the seniority list dated 5.12.95. Since applicants were regularized on future dates and were junior to those Diesel Assistants whose names were included in the seniority list dated 23.8.2004 in continuation of seniority list dated 5.12.1995, a fresh seniority list will be issued in due course and the names of the applicants will be added at the appropriate places.

5. To cut short the whole matter, today when the matter was called out, counsel for applicant handed order letter dated 25.07.2005 issued by the Headquarters Office of Northern Railway, which according to the applicants' counsel redressed applicants' grievances to some extent inasmuch as the procedure for fixing the seniority has already been laid down in the said letter and since respondents have also stated that applicants' names would be interpolated at appropriate places, let directions be given to that effect.



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6. Counsel for respondents also stated, on instructions from Shri Gian Mehta APO/Moradabad, that on the basis of letter dated 25.7.2005, respondents shall be issuing the seniority list interpolating the names of the applicants at appropriate places within a reasonable time.

7. We have heard both the counsel and perused the letter as well. Since the procedure for fixing the seniority is already laid down by Railway Board, its only needs to be implemented.

8. ^A It is relevant to note that the abovesaid letter was written as back as on 25.07.2005, i.e., almost one year back. Therefore, there is need to give time bound directions. Accordingly respondents are directed to issue the final seniority list of Diesel Assistants/ 1st Fireman within a period of three months from the date of receipt of a copy of this order, on the basis of letter dated 25.07.2005, interpolating the names of applicants at appropriate places under intimation to them. It is made clear that while deciding applicant's seniority, respondents shall also take into consideration, the representation dated 9.6.2004 given by the applicants and annexed with the petition at Page-36. We would like to clarify that we have not gone into the question as to how seniority should be fixed. OA is disposed of on the basis of letter dated 25.07.2005. Applicants would, therefore, have the liberty to challenge their interpolation, in case they are aggrieved by the seniority list. ^{A.}

9. With the above directions, this OA stands disposed of. No order as to costs.

^B
17/7/06.
(Mrs. Meera Chhibber)
Member (J)

^{V.K. Majotra}
17/7/06
(V.K. Majotra)
Vice Chairman (A)

cc.