

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(12)

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O.A. 684/92

New Delhi this the 9th day of April, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri K. Muthukumar, Member(A).

Shri Chander Pal Singh,
S/o Shri Dori Singh,
Inspector of Works,
Northern Railway,
Ghaziabad (UP). . . Applicant.

By Advocate Shri S.K. Sawhney.

Versus

Union of India through

1. General Manager,
Northern Railway,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
DRM Office, Chelmsford Road,
New Delhi. . . Respondents.

None for the respondents.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has filed this application impugning the validity of the order passed by the respondents dated 23.5.1991 revising the seniority list of IOWs issued by them earlier by order dated 19.1.1997 whereby the applicant is placed at Sr. No. 148 in the old seniority list of IOWs Grade-III and at Sr. No. 65 in the new seniority list of IOWs Grade-II below Shri Kharti Lal and above Shri Yash Pal Sharma.

2. The brief facts of the case are that the applicant was transferred to Delhi Division of Northern Railway from South Central Railway on mutual exchange with one Shri C.V. Thankachan, IOW. The applicant has relied on

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the provisions of Rule 310 of Indian Railway Establishment Manual that he was to take the seniority of Shri T.V. Thankachan with whom he had exchanged the position, who was having lower seniority as compared to him. According to the applicant, he was correctly placed in the seniority list of Inspector of Works at Sr. No. 123~~a~~ above Shri Suraj Prakash Moley and below Shri H.K. Puri who were selected along with Shri C.V. Thankachan vide letter dated 29.12.1980. He states that he continued in ~~that~~ seniority till the revision of the seniority by the impugned letter dated 23.5.1991.

3. The respondents have filed their reply but none appeared on their behalf and so we have perused the records and heard Shri S.K. Sawhney, learned counsel.

4. We note that the respondents have also relied on Para 310 of the Indian Railway Establishment Manual which reads as follows:

"Railway servants transferred on mutual exchange from one cadre of a division office, or railway to the corresponding cadre in another division office or railway shall / have their seniority on the basis of the date of promotion to the grade or take the seniority of the railway servants with whom they have exchanged whichever of the two may be lower" (Emphasis added)

We also note that the respondents have mentioned the date of birth of the applicant which does not appear to be relevant to the issues involved in this case. The respondents have themselves described the following service particulars of Shri C.V. Thankachan and the applicant:

<u>Shri C.V. Thacharan</u>	<u>Sh. Chander Pal Singh</u>
Date of Birth	20.5.40
Date of appointment	06.4.62
Date of promotion	13.5.74

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A While the respondents have referred to certain annexures in the reply, none is on record and in spite of notice, none had appeared also on their behalf. The applicant has produced the seniority list of I.O.Ws grade in the Delhi Division for our perusal which is placed on record. In this list, Shri C.V. Thankachan, is shown at Sr. No. 123 and the applicant has been placed at Sr. No. 123(a). Against the Sr. No. 123 of Shri C.V. Thankachan, the remarks had been made 'spared on 1.12.82 for GM/SC Rly on exch. with Sh. Chander Pal Singh, IOW'. As per Rule 310 of the Indian Railway Establishment Manual relied upon by both the parties and referred to above, the Railway servants transferred on mutual exchange from one cadre of a division office, or railway to the corresponding cadre in another division office or railway shall have their seniority on the basis of the date of promotion to the grade or take the seniority of the railway servants with whom they have exchanged, whichever of the two may be lower. The learned counsel for the applicant has submitted that Shri Thankachan has been placed on the panel and promoted as IOW on 29.12.1980. The respondents have themselves shown that the applicant has been promoted on 11.2.1980, i.e. prior to the date of promotion of Shri Thankachan.

5. Therefore, having regard to Rule 310 of the Indian Railway Establishment Manual and the facts of this case, the assignment of seniority to the applicant in the position previously held by Shri Thankachan, i.e. at Sr. No. 123(a) between Shri Suraj Prakash Narang and Shri Hari Kishan Puri in the seniority list of IOWs as previously done by the respondents by their order dated 13.1.1988 is in order and nothing has been placed on record by the respondents to justify the revision of the seniority list by the impugned letter dated 23.5.1991. Besides, the respondents have

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not complied with the principles of natural justice in passing the impugned seniority lowering the position of the applicant by the impugned order dated 23.5.1991.

6. In the result, the application succeeds. For the reasons given above, the impugned order dated 23.5.1991 is quashed and set aside and the respondents are directed to assign the correct seniority to the applicant in the grade of IOWs, as previously assigned to him, namely, 123(a) in place of Shri C.V. Thankachan.

O.A. disposed of as above. No order as to costs.


(K. Muthukumar)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

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