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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

DATE OF DECISION 12.11.1996

D.A.No. 2467/93

FORUM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN
HON'BLE MR. S:P.BISWAS, ADMINISTRATIVE MEMBER

Shri Mukundi Lal

Vs.

Union of India through General Manager
Northern Railway and another

Advocate G.D.Bhandari - for applicant

Advocate R.L Dhawan - for respondents

To be referred to the reporters.

JUSTICE CHETTUR SANKARAN NAIR
CHAIRMAN
12.11.1996

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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

O.A. NO. 2467/93

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR (J), CHAIRMAN
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

New Delhi, this 12th day of November, 1996.

Mukandi Lal
s/o Shri Tunda Singh
Typist under Sr. DME (Diesel)
N.R. Diesel Shed
Tughlakabad
New Delhi.

r/o 76-D-3, Rly. Colony
Tughlakabad
New Delhi - 110 044.Applicant

(By advocate Shri G.D. Bhandari)

V.S.

1. Union of India
through: The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
State Entry Road
New Delhi. Respondents

(By Advocate Shri R.L. Dhawan)

The application having been heard on 12.11.1996,
the Tribunal on the same day delivered the following:

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ORDER

CHETTUR SANKARAN NAIR (J), CHAIRMAN

Applicant seeks seniority with effect from 26.11.1977, drawing analogy to the case of applicants in OA No. 1488/89. Seniority for ad hoc service is also claimed.

2. Nine persons were empanelled in a block. Four of them came before this Tribunal by OA 1488/89 and seniority was assigned to them as prayed for. Applicant submits that at least three of those applicants were junior to him, and that the anomaly should be rectified by giving him the same benefit given to applicants in OA 1488/89. To contend that everyone belonging to a group must be given the same benefits, applicant relied on the decision in Inderpal Yadav & Others Vs. Union of India and Others 1985 SLR (2) SC 248. Inderpal Yadav's case was a public interest litigation involving the interests of a large number of persons belonging to an under-privileged group and the observations made by the Supreme Court must be understood in that context. OA No.1488/89 did not deal with the interests of any group. It dealt with individual claims of four persons and it directed:

"..... assigning the seniority to applicants below all those who were regularised vide order dated 26.11.1977.."

contd. ... 3/-

3. It is very difficult to understand this order as determining the rights of a group. Quite apart from that, the powers which the highest Constitutional Court of the land may exercise under Article 142 of the Constitution are not available to the Central Administrative Tribunal or any other court and drawing analogies and passing similar orders will be nothing short of an unpardonable exercise. Again, granting seniority to four persons cannot justify granting seniority to everyone in the list. If that were to be so, the whole exercise would turn futile.

4. Perhaps, the situation where seniors like applicant became junior to some of the applicants in OA 1488/89, arose as the Tribunal passed an order granting seniority to the applicants before it, without considering the claims of others in the seniority list and the possible impact that would be created by the order of the Tribunal. In matters like seniority, any order passed by a Court or a Department is likely to affect many persons, and in such cases it will be necessary, if not essential, to issue notice to every person who may be affected. That, the Tribunal did not do in OA 1488/89. We cannot make the same mistake again and grant seniority to applicant herein, over the applicants in OA 1488/89 without notice to them. That will be a counter-productive and an impermissible exercise. Admittedly, and indisputably, if we grant the relief prayed for, applicant will rank senior to

cond. ... 4/-

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S/Shri Yogesh Chander/Narain Chand, Vinod Kumar/Ram
Kishan and Amrik Singh/Jagir Singh in A-6 list. They
are not parties before us, and we are not prepared to
accept the submission of counsel that they need not
be heard, because they were always juniors to applicant.
It will be a travesty of justice to deprive them of
seniority without even hearing them.

5. Applicant has also prayed for seniority on
the basis of the length of ad hoc service from 7.12.1983.
It is well settled, by a long line of decisions that
ad hoc service cannot be reckoned for grant of seniority.
(See S.K. Saha 26 ATC 607 SC, Dr. Haq 24 ATC 117 SC,
Dr. Arundathi AIR 1995 SC 962, Excise Commissioner Vs.
Sri Kanta AIR 1993 SC 1564.)

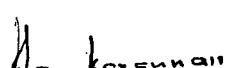
6. Applicant relied on different decisions of
this Tribunal to contend that relief should be granted
even to those who were not parties to the earlier
decision. The decisions of this Tribunal run contrary
to decisions of the Supreme Court in AIR 1977 SC 474,
470, AIR 1972 SC 1414, AIR 1995 SC 1991 and other cases.
The case on hand is one of individual seniority and
not of group interest.

7. We dismiss the application with costs, which
we fix at Rs.500/-.


(S.P. BISWAS)

MEMBER (A)

/avi/


Chettur Sankaran Nair

(CHETTUR SANKARAN NAIR (J))

CHAIRMAN