

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

9

O.A. No. 417 of 1993 decided on 10.7.1998.

Name of Applicant : Amichand & anr.

By Advocate : Shri A.K.Bhardwaj

Versus


Name of respondent/s UOI through the GM, Western
Railway & ors.

By Advocate : None

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)
Hon'ble Dr. A.Vedavalli, Member(J)

1. To be referred to the reporter - Yes/No
2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No


(N. Sahu)
Member (Admnv) 10.7.98.

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.417 of 1993

New Delhi, this the 10th day of July, 1998

Hon'ble Mr. N. Sahu, Member (Admnv)
Hon'ble Dr. A. Vedavalli, Member (J)

1. Amichand S/o Shri Dhumi r/o village Kundal, Tehsil Rewari, Distt. Rewari, P.O. Teet, working as Gangman, Gang No.2, under C.P.W.I., Ateli, Railway Station Ateli, Western Railway.
2. Bhoordutt S/o Shri Prem Lal, Gangman, Gang No.8, Office of P.W.I., Railway Station, Ateli.

-APPLICANTS

(By Advocate Shri A.K. Bhardwaj)

Versus

1. Union of India through : The General Manager, Western Railway, Churchgate, Bombay.
2. The Divisional Railway Manager, Jaipur Division, Northern Railway, Jaipur.
3. The Path Way Inspector, Jaipur Division, Northern Railway, Ateli (Haryana).
4. Munni Lal S/o Shri Prahlad, Keyman, Office of the P.W.I., Railway Station, Ateli, Haryana.
5. Ram Narayan Harla, Keyman, Railway Station, Ateli (Haryana).

-RESPONDENTS

(By Advocate -None)

ORDER

By Mr. N. Sahu, Member (Admnv) -

Two applicants have joined in this Original Application and seek the following reliefs -

- a. to command the respondents to determine the seniority of the applicants as Gangmen vis-a vis other regular employees w.e.f. the date of their appointment as Gangman on regular basis.

Shri N. Sahu

- b. to mandate the respondents to promote the applicants as keymen w.e.f. the date on which their immediate juniors were promoted with all consequential benefits.
- c. to allow the application of the applicants with cost.
- d. to grant such other and further relief to the applicants which their eminent Lordships deem fit and proper in the facts and circumstances of the case."

2. The admitted facts are that these applicants were appointed as casual labour in the year 1961. They were screened in the year 1963. They were appointed to the post of Substitute on 8.3.1964 and 21.5.64. Both the applicants were given regular appointment with effect from 6.1.1965 by the letter of the Assistant Engineer, Alwar No.E/891/4 dated 31.12.1964. The applicants are aggrieved that the respondents promoted junior employees on 15.9.1991 and 25.7.1992 as Keymen ignoring their claims. They contend that they are senior to the Keymen who were promoted :- Sultan, Sultan Pali, Sumrat, Ghisa, Ram Narayan Harla , and Munnilal. They have impleaded Munnilal as respondent no.4 and Ram Narayan Harla as respondent no.5.

3. After notice, the respondents contend that the O.A. is barred by limitation. They denied that Shri Sultan S/o Shri Pala Ram, Shri Sumrat S/o Shri Ghisa, Shri Ram Narain S/o Shri Harla and Shri Munnilal S/o Shri Prahelad are juniors to the applicants. As per the seniority list the applicants are junior to the above mentioned four employees. These four employees whose promotion are impugned have qualified

[Handwritten signature]

in the seniority-cum- suitability test for the post of Keyman. The seniority of the casual labourer is determined on the basis of his regular appointment. As such Shri Sultan son of Shri Pala Ram and Shri Sumrat son of Shri Ghisa were regularly appointed on 10.5.1963 and 30.5.1964 respectively. Of the two, Shri Sultan was found more suitable and he was appointed and Shri Sumrat was not found suitable. Central to the claim of the applicants is the seniority list published under letter no.E-1031/1/A dated 1.2.1972. The respondents state that this seniority list was not challenged. In the year 1987 a seniority list for Group D employees was prepared. Finally, another list was published on 30.3.1992. These applicants did not question any of these seniority lists. In this seniority list the four employees against whom the applicants allege discrimination are found to be senior to them. As a matter of fact, respondents 4 and 5 were promoted on 10.8.1990 and 25.7.1992 respectively. A copy of the seniority list of the relevant individuals is to be found at page 8 of the counter affidavit. Shri Sultan son of Shri Pala Ram, Shri Ram Narain son of Shri Harla, Shri Sumrat son of Shri Ghisa and Shri Munni Lal son of Shri Prahelad are found at serial nos. 113, 142, 144 and 154 respectively in that seniority list. The applicants are found at serial nos. 163 and 174 in the said list. That apart the first four persons were appointed during May, 1963 and May, 1964 whereas the applicants were appointed regularly on 6.1.1965.

4. We agree with the plea made by the official-respondents that a quarter century after the seniority list was published on 1.2.1972 the applicants cannot question the correctness of such seniority list. Clearly the claim is barred by limitation. The respondents have promoted the two private respondents mentioned in the O.A. and four others who are clearly found to be senior to the applicants in the said seniority list. Even otherwise the applicants were regularised as Gangmen on 6.1.1965 whereas private respondents were regularised much earlier to them. As the seniority lists have not been impugned it will be improper and impracticable to question and disturb the seniority list which has been holding the field for over a quarter century. We agree with the stand taken by the respondents that that seniority list cannot be disturbed at this stage. We are also not satisfied about the merits of the applicants' claim at such a belated stage. Relief no.1 is, therefore, rejected on the ground of limitation. Automatically relief no.2 for promotion of the applicants to the post of Gangman cannot be considered because the persons promoted are admittedly senior to the applicants in the seniority list. After considering the averments made in the O.A. by the respondents who could not be present when hearing had taken place and after considering the arguments of Shri A.K.Bhardwaj, learned counsel for the applicants, we are satisfied



:: 5 ::

that this O.A. has no merit and is accordingly
dismissed. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

Narasimhaiah
(N. Sahu) 10.7.98
Member (Admnv)

rkv.