

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A. No. 864/93

New Delhi, this the 4th day of August, 1998

HON'BLE SHRI N.SAHU, MEMBER(A)  
HON'BLE DR.A.VEDAVALLI, MEMBER(J)

Shri Bhanu Kumar Jain,  
S/o Sh.Hukan Chand Jain,  
working as Clerk under  
Traction Foreman  
Northern Railway Grid Sub-Station  
Chanakya Puri Railway Station  
New Delhi R/o  
F-273, Pandav Nagar,  
Patpar Ganj, Delhi-110091. ....Applicant

(By Advocate Shri S.K.Sawhney)

Versus

1. Union of India through  
General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. Divisional Railway Manager,  
Northern Railway,  
D.R.M. Office, New Delhi. .... Respondents

(By Advocate Shri O.P.Kshatriya)

O R D E R (ORAL)

BY HON'BLE SHRI N. SAHU, MEMBER(A)

This application has been filed to set right the grievance that the applicant had not been assigned rightful seniority on his medical decategorisation from the post of Electric Fitter Grade II and absorption thereafter as Lower Division Clerk in the Electrical Branch. The relief prayed for is not only to assign the seniority in the cadre of Clerk in the scale of Rs.950-1500 in terms of Rule 1314(a) of Indian Railway Establishment Manual (IREM) but also to direct the respondents to promote him to the post of Senior Clerk from the date persons junior to him were promoted.

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2. Ld. counsel for the applicant has drawn our attention to Rule 1314(a) of IREM (Annexure A-5) in which it is clearly stated that the medically declassified staff should be allowed seniority "in the grade of absorption with reference to the length of service rendered in the equivalent or corresponding grade irrespective of rate of pay fixed in the grade of absorption."

3. The matter has been cut short by the ld. counsel for respondents by drawing our attention to the averments in paragraphs 4.8 and 4.9 of the counter. It is stated that the applicant has already been accorded his seniority by an order dated 26.5.93. His seniority was fixed above Shri Shanti Swaroop and below Shri Jeevan Prakash amongst the clerks of Electrical Branch on roll on 6.1.92 in the grade of 950-1500. Relief 1 therefore has been met by order dated 26.5.93. With regard to relief no.2, ld. counsel for respondents states that no junior person to the applicant has been promoted as Senior Clerk in Electrical Cadre after the date the applicant entered into the cadre on 5.1.92. This was the crucial date because prior to this date he was declared medically unfit for the post of Electric Fitter. In the rejoinder this aspect has been disputed.

4. The applicant's counsel has drawn our attention to Annexure AA-1 dated 8.11.90 by which some officials were promoted as Senior Clerks (items 6 to 22). One fact that has to be kept in mind is that the applicant joined this grade of LDC on 6.1.92. These promotions have taken place on 8.11.90.

Kavita

5. The question of promotion of the Applicant to the post of Senior Clerks can only be decided in the light of the rules relating to the said promotion. In terms of the provisions contained in paragraphs 302, 318 and 319 of the Indian Railway Establishment Manual Volume I, 1989 edition, seniority on promotion to higher grade is assigned in that grade with reference to date of entry on regular basis after due process of selection/suitability. It is to be understood that the promotions that had taken place even before the applicant was borne on the cadre, cannot be disturbed. Otherwise it would lead to grave and absurd results. We would therefore direct the applicant to make a representation to respondent no.2, the Divisional Railway Manager, Northern Railway, New Delhi about his claim for consideration for his promotion to the post of Senior Clerk. On this representation, the applicant shall be given the foremost chance of consideration for any post of Senior Clerk that has fallen vacant soon after he joined the post of LDC provided he satisfies the rules laying down the criteria for promotion. The respondents shall thereafter consider fixing the applicant's seniority in the promotee cadre of Senior Clerk if at all he was found eligible by the competent selection body for promotion, in accordance with Rules. His representation in this regard will be disposed of within a period of 16 weeks on the basis of the above directions.

6. O.A. is disposed of as above. No costs.

*A. Vedavalli*  
( DR.A. VEDAVALLI )  
MEMBER(J)

*N. Sahu*  
( N. SAHU )  
MEMBER(A)