

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1021 OF 1997
TUESDAY, THIS THE 22ND DAY OF OCTOBER, 2002

HON'BLE MR. SARVESWAR JHA, MEMBER-A
HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Prem Sagar Singh,
son of Sri Laxman Singh,
Resident of S25/26-4
Sarsauli Cantt,
Varanasi.

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Applicant

(By Advocate Sri V.K. Srivastava)

Versus

1. Union of India,
through its General Manager,
Diesel Locomotive Workshop,
Varanasi.
2. Deputy Chief Personnel Officer,
Diesel Locomotive Workshop,
Varanasi.
3. General Manager (P)
Locomotive Workshop,
Varanasi.

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Respondents

(By Advocate Sri A. Sthalekar)

O R D E R

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

By this O.A. the applicant has sought the
following reliefs:-

"(a) That by means of order or direction in the nature of certiorari quashing the orders dated 17.7.1996 and 07.08.1996 passed by the respondent (Annexure-5 and 6 to the compilation A.

(b) That by means of order or direction in the nature of mandamus commanding the respondents to determine the seniority of the applicant with effect from 21.09.1992 since the date of promotion to the post of Chemical and Metallurgical Assistant in scale of Rs.1400-2300 and further prayed to provide all the benefit of post and pay scale of C.M.A. since 21.09.1992.

(c) To issue any other suitable order or direction as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

(d) to award cost of the application to the applicant."

2. It is submitted by the applicant that he was promoted as Junior Chemical and Metallurgical Assistant vide letter dated 21.09.1992 in the pay scale of 1400-2300

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on ad-hoc basis (Page 29). It is submitted by him that he has been continuously working on the said post and passed the selection held by the Allahabad Railway Board for the said post as direct recruitment as well, in January, 1996. It is evident from letter dated 19.01.1996 (page 30).

3. The grievance of the applicant is that even though he had been working on the said post continuously with effect from 21.09.1992 and had been given regular appointment on the said post without any break, his seniority ~~should~~ ^{has not been} reckoned from the ^{i.e.} date, 21.09.1992. In this connection, he had given a representation to the respondents which was rejected vide order dated 17.07.1996 (Page 24). In the said order it was clarified by the respondents that all those candidates who had been appointed by the Railway Recruitment Board are given the seniority only after they complete their training successfully and since he had been given appointment against direct recruitment quota, therefore, his seniority cannot reckon back to 1992, because in 1992 he was promoted only on ad-hoc basis and in the order itself it was made clear that the ad-hoc promotion was given against the posts meant for direct recruitment. Accordingly, he could not be given the benefit of ad-hoc promotion given in 1992. Thereafter, the applicant ^{had} given a representation once again. His representation was rejected vide order dated 07.08.1996 (Page 26) wherein it was made clear that as per para 302 of I.R.E.M. his seniority ^{is to} ~~is~~ be given only after the completion of successful training and under para 168 of I.R.E.M., this training ^{is} ~~is~~ supposed to be of one year. Therefore, his seniority cannot be given from a date prior to his appointment as he has not ^{been} given a direct appointment and is not a promotee.

4. The applicant has submitted that his training was waved and, therefore, his seniority could not have ^{been} fixed by



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^{The} taking/period of training also into consideration. Therefore, he had given another representation to the General Manager explaining all the facts therein. The said representation is at page 40 of the O.A. The applicant has stated that till date no reply has been given to him by the General Manager in the said representation. His case is that since he had been working continuously on the post of Chemical and Metallurgical Assistant with effect from 21.09.1992 his seniority has to be reckon from that date on the said post.

5. The respondents On the other hand have opposed the O.A. and have stated that the applicant has been given the appointment as Chemical and Metallurgical Assistant as a direct recruitment after he was duly selected by the Allahabad Recruitment Board which took place only in the year 1995. Thereafter when the appointment letter was issued to the applicant on 15.06.1996, it was made clear that his seniority would be fixed as per the Railway Board letter dated 27.11.1990 after the completion of training period, that is, 27.02.1997. The appointment letter is annexed as Annexure CA-2. It is, therefore, submitted by the respondent's counsel that the applicant was fully aware even at the time of his appointment a letter was given to him that his seniority was with effect from 27.02.1997 and since he had accepted the said condition, it is not open to the applicant to now turn down and challenge the same, or claim any other relief contrary to the said condition. They have also referred to Annexure CA-4 which was issued on 21.06.1996, wherein it was once again reiterated that the seniority of the applicant was fixed as per Railway Board's Letter dated 27.11.1990 after the completion of training period that is 27.02.1997.

6. The respondents have thus, stated that since the applicant was sent for one year training as C.M.A. naturally



his seniority would have been counted from the date when the training was successfully completed. They also submitted that after accepting an offer of appointment dated 15.06.1998 by the applicant, he was absorbed by the competent authority vide order dated 21.06.1996. However, in the note it was clarified that ^{his} seniority would be assigned only with effect from 27.01.1997 that is when the training was to be completed. The respondents have also submitted that his promotion in the year 1992 was only on ad-hoc basis and since it was done against the direct recruit quota, the applicant cannot claim any benefit for the purpose of reckoning his seniority. The respondents have annexed the seniority list also as annexure CA-5 wherein the applicant is shown at serial no.41. It is submitted by the respondent's counsel that the applicant has not /challenged the said seniority list. Therefore, the O.A. is totally mis-conceived and is liable to be dismissed.

7. We have heard both the counsel and perused the pleadings and material placed in the record. The order dated 21.09.1992 clearly shows that the promotion was purely on ad-hoc basis and it was made clear that the applicant would not have any claim for seniority and this promotion is being done against the direct recruitment quota. Therefore, naturally the said post could not have been filled by way of promotion in a regular manner as a consequence of which the ad-hoc promotion given to the applicant in the ~~year~~ september, 1992, is of no consequence especially when he appeared in the selection, invited by the Allahabad Recruitment Railway Board appeared in the same, got selected and was given an appointment as a direct recruit. In the appointment letter issued to the applicant it was clearly mentioned that the seniority would ^{be} reckoned from the date he had completed his training successfully. This condition was accepted by the applicant



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and even though the respondents had curtail the training period as stated by the applicant's counsel, since the guidelines laid down by the Railway Board made it clear that the seniority would be reckon only after the completion of training. The seniority could not have been given from a date earlier then the date when the training was completed. This is not a case where the applicant was promoted on ad-hoc basis against the promotional ~~quota~~ vacancies and was regularised subsequently without any break. Since both the situation are absolutely different, therefore, in our considered view, the applicant cannot claim seniority with effect from September, 1992. The seniority can be fixed only after a person is given regular appointment or promotion in a regular manner. Since the applicant was appointed on regular basis only, by letter dated 15.06.1996 and the training completed on 27.02.1997. We find no fault or irregularity in the stand taken by the respondents. On the contrary we are of the view that the applicant has been assigned his seniority directly. Therefore, no interference is called for by the Tribunal in this matter. As far as the representation at page 40 is concerned, we have seen from the pleadings and annexures that the applicant has given two representations which were considered and rejected by the respondents by giving ^a~~the~~ reasoned order. Therefore, no purpose would be served by sending the matter again to the authorities for passing ^{yet} another order on the representation filed by the applicant.

8. We, therefore, find no merit in the case and the O.A is rejected with no order as to costs.


Member-J


Member-A

/Neelam/