

12

O.A. NO. 1310/97.

05.09.2002.

Hon' Mr. Justice R.R.K. Trivedi, V.C.

Hon' Maj Gen K.K. Srivastava, A.M.

Sri, S. Agrawal, learned counsel for the applicant. Sri A.K. Gaur, for the respondents.

M.A.No. 1330/2002. made by the respondents for correction of the discription of the respondent No. 1 where the union of India has been impleaded through Secretary, Ministry of Railways. The learned counsel for the respondents has submitted that the union of India can be represented by the General Manager ^{of the} ~~of~~ Concerned Railway and the applicant may be directed to correct the discription of the respondent No.1. The application is allowed. The discription of the respondent No. 1 shall be corrected, during the course of hearing.

Heard, Order dictated separately.



A.M.



V.C.

/Manish/

In the Central Administrative TribunalAllahabad Bench, Allahabad.Original Application No. 1310 of 1997.Allahabad: this the 5th day /of September, 2002.Hon'ble Mr. Justice R.R.K. Trivedi, V.C.Hon'ble Maj Gen K.K. Srivastava, A.M.

Ghanz Shyam Singh, a/a 37 years, Son of Late Raj
Kishore Singh Ticket No.570, working as Fitter
Grade-III in the office of Traction Foreman (Maintenance)
Eastern Railway Moghalsarai, Varanasi.

.....Applicant.

Counsel for the applicant: Sri Sudhir Agrawal, Adv.

Versus.

1. Union of India through the General Manager, Eastern Railways, Calcutta.
2. The General Manager, Eastern Railway, Calcutta.
3. The Divisional Manager Manager, Eastern Railway, Moghalsarai.
4. The Senior Divisional personnel Officer, Eastern Railway, Moghalsarai.
5. Assistant Personnel Officer, Eastern Railway, Moghalsarai.
6. Sri Ravi Shanker Rai.
7. Sri Pancham Prasad.
8. Sri B.K. Sharma.
9. Sri R.S. Baghchi.
10. Sri S.J. Hussain.
11. Sri S.B. Singh.
12. Sri M.K. Nandi.
13. Sri Ajit Narain.
14. Sri Ram Sunder.
15. Sri Sravan Kumar.
16. Sri Amar Nath Singh.
17. Sri Babu Lal Prasad.
18. Sri Gopal Vishwakarma.

Respondents No.6 to18 are presently working as Fitter
Grade-III In the office of Traction Foreman(Maintenance)
Eastern Railway Moghalsarai, Varanasi.

.....Respondents.

Counsel for the Respondents: Sri. A.K. Gaur, Adv.

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)


By This O.A. under section 19 of the A.T. Act, the applicant has challenged the orders dated 19.11.1997, 24.11.1997 and 01.12.1997 by which, his seniority has been disturbed and he has not been shown ^{as} eligible for promotion to the post of Fitter Grade-1.

2. The grievance of the applicant is that he was recruited in Railways as Khalasi on 27.12.84 at M.C.T.R. Jamalpur. On mutual transfer, he was transferred to Moghalsarai by order dated 10.01.1986. The mutual transfer was with one Sri Kapil Dev Gupta. However, the seniority of the applicant was determined in accordance with the Rules and he was shown ^{senior} to the respondent Nos 6 to 18. However, by the impugned order, his seniority has been disturbed, without giving any opportunity of hearing. It is also submitted that for correcting the seniority on the alleged representation, the mutual transfer of the applicant ^{was} shown against one Sri Maheshwari Prasad, which is incorrect. The order is perverse and is liable to be set aside. It is also submitted that even from the corrected list the ^{applicant} is senior to the respondent Nos. 9 to 18 but his name has not been included in the seniority list, & no reason has been mentioned for the same. The submission of the learned counsel for the applicant appears to be justified.

3. Sri A.K. Gaur, learned counsel for the respondents could not explain the factual mistake by which the impugned order suffered and also could not explain how the settled seniority could be suddenly change without giving any opportunity of hearing to the applicant.

4. For the reasons stated above, this O.A. is allowed

and




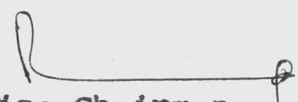
15

and the impugned order dated 19.11.1997 and 24.11.1997 are quashed and the respondents are directed to re-determine the seniority in accordance with law, after giving an opportunity of hearing to the applicant and other concerned persons. So far as, the order dated 11.12.1997 is concerned, it shall be treated modified and the name of the applicant shall be included in the eligibility list. The correct place will be determined after ^{or a} this disputed seniority is determined.

5. By order dated 09.12.1997, this Tribunal allowed the applicant to appear in the selection test. It is not disputed that the applicant appeared in the test, but his result has not been declared. As the O.A. has been allowed, the respondents are directed to declare the result for the post of Fitter Grade II within a period of 1 month from the date of copy of this order is filed. The applicant, if found, selected for promotion, he shall be placed above ^{or} his juniors and shall be entitled for all consequential benefits.

No order as to costs.


Member (A)


Vice Chairman.

/Manish/