

(14)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 1st day of February 2002.

Original Application No.402/1997

CORAM :-

Hon'ble Mr. C.S. Chadha, A.M.

Hon'ble Mr. A.K. Bhatnagar, J.M.

1. Naresh Prasad Yadav S/o Shri R.Y. Yadav.
2. Lallan Prasad S/o Shri Mishri Lal.
3. Kamta Prasad Singh S/o Shri Ram Janam.
4. Abdul Jabbar S/o Shri Niyaz Khan.
5. Vijay Bahadur S/o Shri Kariyal,
6. Brijesh Kumar S/o Shri Late Rameshwar.
7. Bhagwan Das S/o Late Shri Shobh Nath.
8. Rajesh Kumar S/o Late Shri Rameshwar.
9. R.A. Mallick, S/o Shri Kula Nand Mallick.
10. S.S. Prasad S/o Shri D.C. Gupta.
11. Dasrtah Ram S/o Shri B.N. Singh.

All working under Chief Crew Controller  
(CCC) T.R.S./OPN/Mughalsarai, Varanasi.

(sri Navin Sinha/Sri Vipin Sinha, Advocates)

. . . . . Applicants

Versus

1. The Union of India through  
Secretary, Ministry of Railways, Rail Bhawan,  
Baroda House, New Delhi.
2. The Railway Board, through  
General Manager, Eastern Railway,  
Fairly Place, Calcutta.
3. The Divisional Railway Manager,  
Eastern Railway, Mughalsarai.
4. The Senior Divisional Personnel Officer,  
Eastern Railway, Mughalsarai.
5. Senior Divisional Electrical Engineer(T.R.S.),  
Eastern Railway, Mughalsarai.
6. Sri Ram Balak Prasad, Staff  
No. 720700, C/o C.T.F. (R), Mughalsarai  
(Sri Prashant Mathur, Advocate)

. . . . . Respondents

*Chadha*

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ORDER (Oral)

By Hon'ble Mr. C.S. Chadha, A.M.

The case of the applicants is that they were appointed earlier than Sri Ram Balak Prasad (Respondent no. 6 in this case) as Assistant Electrical Drivers but Sri Ram Balak Prasad was considered for promotion as Engine Turner by virtue of a wrong seniority list in which he was shown senior to them. This matter was also considered in OA No. 1522 of 1993 in which the Tribunal was pleased to pass an order in July, 1996 and respondents were directed to finalise the seniority of Sri Ram Balak Prasad within three months from the date of communication of the order and inform the applicants and the applicants shall have the right to challenge the seniority of respondent no. 6 (Sri Ram Balak Prasad) if they were still aggrieved. Accordingly, a fresh seniority list was prepared on 5-8-1998 and later on 22-7-1998. In both these lists Sri Ram Balak Prasad is still shown senior to the applicants and, therefore, their grievance has not been redressed as yet. The principle regarding fixation of seniority was decided by the Tribunal in Para 13 of its judgement. However, we find that in the order dated 22-7-1978 while fixing seniority of Sri Ram Balak Prasad no reason has been given for keeping him still senior to the applicants. Merely refixing seniority is not the remedy which was sought for. Had the order dated 2-7-1998 clearly mentioned that Sri Ram Balak Prasad remains senior by virtue of certain findings in his favour we <sup>would</sup> ~~have not~~ <sup>to the</sup> interfered with the seniority. However, it would not be proper to refix the seniority without giving <sup>an</sup> opportunity ~~by~~ <sup>to the</sup> department to justify its action in keeping the seniority as per list issued

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on 2-7-1998.

2. In the circumstances the OA is, therefore, partially allowed. The seniority list issued vide order dated 2-7-1998 which has been presented in the Court today and taken on record today is quashed. The respondents are directed to consider the original representation of the applicants that they should be assigned seniority higher than Sri Ram Balak Prasad on the ground that they were appointed earlier than him as Assistant Driver Electrical. The respondents while deciding the fresh seniority list must clearly give reasons for rejecting the request of the applicants for not keeping them senior on the ground of earlier appointment. Such a seniority list must be finalised within six months of the receipt of a copy of this order by the respondents. There shall be no order as to costs.

  
Member (J)

Member (A)

Dube/