

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.

Original Application No.824 of 1997.

Allahabad this the 30th day of May 2003.

Hon'ble Maj Gen KK Srivastava, Member-A.

Hon'ble Mr. A.K. Bhatnagar, Member-J.

1. Anil Kumar Shukla
S/o Shri Vishwanath Prasad Shukla
R/o Village Salem Bhadari
Post Lalganj, District Pratapgarh.
2. Ratnakar Dubey,
S/o Sri D.K. Dubey
R/o S-8/217, Sudhakar Road,
Khejuri, Varanasi.
3. Dhoop Chandra,
S/o Shri Radheshyam Vishwakarma
R/o Village Churawanpur (Mudhaita)
Post Bhullanpur (PAC) Varanasi.
4. Arun Kumar Dwivedi,
S/o D.N. Dwivedi,
R/o Shaktipuram, Mitari Marig,
Lahartara, Varanasi.
5. Mohd. Iqram Ullah
S/o Sri Ehsan Ullah
R/o City Cement Istampur,
Mugal Sarai, Varanasi.
6. Hare Ram Pandey
S/o Shri G.S. Pandey
R/o C/o Mohd Ehasan Ullah,
City Cement Istampur,
Mugal Sarai, Varanasi.
7. D.D. Mishra
S/o late Shri Ganesh Dutt Mishra
R/o Yadav Niwas, Harpur,
Ballia.
8. Mohd. Zahir Ahamad,
S/o Shri Khalil Ullah,
R/o-C/o Abu Quram,
S-10/31 Varuna Bridge,
Varanasi.
9. Anil Kumar Rao,
S/o- Shri Sant Sewak Rao,
R/o S-14/27D,
Andharapul, Varanasi.

10. Ramesh Chandra
S/o Shri Ram Lal Ram,
R/o S-14/27D Andharapul,
Varanasi.
11. Prem Prakash Pandey
S/o Shri Ram Awadh Pandey
R/o J-11/68 Nai Basti
Ishwargunj, Varanasi.
12. Dinesh Kumar
S/o Late Shri Munni Lal,
R/o Mitari Ghazipur.
13. Shri Prakash Singh
S/o Shri Shyam Devi Singh
R/o Jaidev Chhapiya,
Post Bhatni Dewaria.
14. Dena Nath Prasad
S/o Harideo Prasad
R/o Village Barawa
Post Malkauli, District Dewaria.
15. Mohd Amin
S/o Shri Rahim Ullah,
R/o Village Sanghati Post
Sadulpura Via-Mugal Sarai Varanasi.
16. Ram Prakash Pandey,
S/o Shri S.P. Pandey,
R/o J-11/68, Nai Basti
Ishwarganj, Varanasi.

.....Applicants.

(By Advocate : Sri Kamlesh Kumar)

Versus.

1. Union of India
through General Manager,
Northern Railway Baroda House
New Delhi.
2. Divisional Railway Manager,
Northern Railway Lucknow
Division Lucknow.
3. Sat Gur Prasad
S/o Shri Siya Ram
I/Fireman.
4. Narain
S/o Shri Saudegar
D.S.L Asstt, LKG.
5. Ghurey Prasad
S/o Shri Bans Raj,
I/Fireman.



6. Muhraj Bihari
S/o Shri Bhagwati Prasad
I/Fireman.
7. R.K. Singh
S/o Shri Triveni Singh
Ist/Fireman.
8. Ram Pearey,
S/o Shri Bhagwan Deen,
DSL Asstt.
9. Bachanoo Prasad
S/o Shri Budhi Ram,
DSL Asstt.
10. Uma Kant Misra
S/o Shri Asha Ram,
Ist/Fireman.
11. B.B. Pandey,
S/o Shri R.D. Pandey,
DSL Asstt.
12. N.K. Singh
S/o Shri Devi Singh
DSL Asstt.
13. Lal Bahadur Yadav
S/o Shri Ram Nath Yadav
DSL Asstt.
14. Ram Samar,
S/o Shri Ram Pher,
DSL Asstt.
15. Rameshwar Yadav
S/o Shri T.M. Yadav
DSL Asstt.
16. Abdul Sattar
S/o Shri Khannoo,
DSL Asstt.
17. O.P. Srivastava,
S/o Shri Chandra Bhan
DSL Asstt.
18. D.P. Tiwari,
S/o Shri S.P. Tiwari,
DSL Asstt.

All respondents are posted in Northern Railway
through Divisional Office Lucknow.

.....Respondents.

(By Advocate : Sri R. Verma/Sri P Mathur)



O R D E R

By Hon'ble Maj. Gen. K.K. Srivastava, Member-A :

List has been revised, none has appeared for the applicant, Sri P. Mathur appeared for official respondents and Sri Rakesh Verma appeared for respondent No.6. We proceed to decide the O.A. on merits under the provision of Rule 15 of C.A.T. Procedure Rules, 1987.

2. In this O.A. filed under Section 19 of Administrative Tribunal Act 1985, the applicants who were direct recruitees have prayed for quashing the seniority list of February 1997 (Annexure-1 to Compilation No.1) and direction to respondents to correct seniority list of the applicants over promotees and provide the up-gradation benefits and arrears thereof.

3. The facts, in short, are that the applicants are the direct recruitees. They were recruited by Railway Recruitment Board, Allahabad during the years 1985-1986 and 1987-1988 as Diesel Assistant Fireman 'A' in scale Rs. 950-1500. They directly reported to Lucknow Division of Northern Railway. They were sent on training for two years and joined their posts thereafter. Aggrieved by the fixation of their seniority viz-a-viz promotees, the applicants have filed this O.A. which has been contested by the respondents.

4. We have heard learned counsel for the respondents and perused records as well as pleadings. The applicants have filed only one temporary appointment order dated 23.03.1990 (Annexure-1) in respect of Sri Anil Kumar Shukla. They have also filed the offer of appointment dated 23.3.1990 in respect of the same applicants. In the offer of appointment,

Compilation No. 6



Contd....5.

condition No.7 reads as under :

"After successful completion of training and if vacancies exist you will be absorbed as Fireman 'A' / Diesel Assistant in Gr. Rs.950-1500 (NS) plus allowance as admissible under the rules."

5. From perusal of the temporary appointment order dated 23.03.1990, we find that the applicants were directed to undergo training for Apprenticeship to Loco-Shed on a payment of stipend of Rs.950 per month plus dearness allowance as admissible. This condition, it is presumed, was applicable in respect of all applicants of this O.A. We find force in the submission of the learned counsel for the respondents that the seniority of the applicant has to be fixed from the date they joined the post. The applicants are claiming that their seniority should be counted from the date they were sent on training. We are not inclined to accept the plea of the applicants that the date they were sent on training should be counted for seniority. They were not appointed against regular posts. Our observation is further strengthened by perusal of condition No.7 which clearly lays down that the candidates after successful completion of training were to be absorbed if the vacancies existed. Therefore, the cases of the applicants for the purpose of seniority is to be decided under rules, contained in para 302 of Indian Railway Establishment Manual which reads as under :

302. Seniority in initial recruitment grades - Unless specifically stated otherwise, the seniority among the incumbents of a post in a grade is governed by the date of appointment to the grade. The grant of pay higher than the initial pay should not, as a rule, confer on a railway servant seniority above those who are already appointed against regular posts. In categories of posts partially filled by direct recruitment and partially by promotion, the criterion for determination of seniority should be the date of regular promotion after due process in the case of promotee and the date of joining the working post after due process in the case of direct recruit, subject to maintenance of inter-se-seniority of promotees and direct recruits among themselves. When the dates of entry into

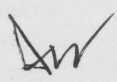
a grade of promoted railway servants and direct recruits are the same they should be put in alternate positions, the promotees being senior to the direct recruits, maintaining inter-se-seniority of each group.

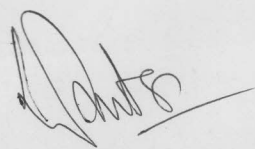
Note : In case the training period of a direct recruit is curtailed in the exigencies of service, the date of joining the working post in case of such a direct recruit shall be the date he would have normally come to a working post after completion of the prescribed period of training."

6. Perusal of the provisions of para 302 quoted above leaves no doubt in our mind that the seniority has to be reckoned from the date of appointment in the grade. Therefore, we agree with the stand stated in para E of the Official respondents in their counter reply. Even otherwise the seniority list was issued in the year 1993 which attained finality and the applicants have ^{to challenge the same} filed this O.A. only on ^{on} 7.9.1997. The respondent's counsel has informed that another seniority list was issued in February 1997 which has neither been challenged nor annexed to this O.A.

7. We do not find any error of law in action of respondents in assigning the seniority to the applicants from the date they joined the post after ~~success~~ completion of training. The O.A. is devoid of merit and is liable to be dismissed. The O.A. is accordingly dismissed.

No order as to costs.


Member-J


Member-A

Manish/-