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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Original Application No. 991 of 1997.

Allahabad, this the 14th day of November, 2002.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. S Jha, A.M.

Sunder Lal Rai
aged about 40 years
son of Late Shri Kashiram Rai,
resident of House No. 285 inside Baragaon
gate Jhansi District Jhansi.

Working as Enquiry-Cum-Reservation Clerk in Grade
Rs. 1200-2040/- R.P.S. in Reservation Office at
Railway Station Jhansi, Central Railway.

.....Applicant.

(By Advocate : Sri A.S. Diwekar| Sri H.M. Sharma)

Versus.

1. Union of India
through the General Manager,
Central Railway MUMBAI.C.S.T.
2. Divisional Railway Manager (Personnel)
Central Railway, Jhansi.
3. Senior Divisional Commercial Manager,
Central Railway, Jhansi.

.....Respondents.

(By Advocate : Sri P Mathur/ Sri G.P. Agrawal)

O R D E R (Oral)

HON'BLE MR. JUSTICE RRK TRIVEDI, V.C.

By this O.A., under section 19 of Administrative
Tribunals Act, 1985, the applicant has prayed for a direction
to the respondents to grant him proper seniority according
to his position in the panel dated 21.02.1991 (Annexure-1)
and amend ⁷ correct seniority list according to the
seniority of Enquiry-cum-Reservation Clerk in the pay scale
of Rs. 1200-2040 (R.P.S.). It has also/ prayed that he may
be granted proforma seniority ^{been} ~~with~~ all consequential benefits.

2. The facts given ^{rise} to this application, are that, the
applicant was serving as Senior Clerk in the office of
Chief Workshop Manager, Central Railway Jhansi. He appeared
in the Departmental examination for selection for the post



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of Enquiry-Cum-Reservation Clerk and passed written test and viva-voce test. After approval of the Competent Authority, a panel of 17 persons, who were selected for promotion, was published on 21.02.1991, which has been filed as Annexure-1. In this panel, applicant Sunder Lal Rai ~~who has been~~ shown at Sl. No. 3. After the panel was published another order was passed for sending all 17 candidates for training to Principal, Z.T.S. Bhusawal. However, it appears that only 8 persons ~~were~~ reported for training, consequently Principal, Z.T.S. ~~Bhusawal, however, the Principal, Z.T.S.~~ Bhusawal cancelled the training programme: as it could not be carried out with 8 candidates. He sent the letter dated 26.02.1991 to this effect which has been filed as Annexure A-3. The reasons stated is that total strength of the training course is 25 candidates, for running course, 10 trainees are necessary, as only 8 candidates have reported, the training course could not be carried out. Applicant was the one of the person who had reported for training. The training could not be completed by the applicant before 14.01.1992. In the meantime, some of the candidates who had come from the Commercial Wing were granted posting and they were mentioned senior to the applicant in the seniority list. Aggrieved by this O.A. has been filed under section 19 of the Administrative Tribunals Act, 1985.

3. The submissions of the learned counsel for the applicant, is that, under Rules 129 of the Indian Railway Establishment Manual Vol-1, ~~the~~ training is necessary for every candidates who ~~were~~ selected for appointment as Enquiry-Cum-Reservation Clerk, ~~from training~~ as provided in sub Rule 2 of Rule 129. In these circumstances, the seniority should have been decided on the basis of position mentioned in the panel by which the applicant and others who were selected for appointment.

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4. Learned counsel for the applicant also referred provision contained in Rule 302. Learned counsel for ~~the respondent's~~ ^{the} applicant, on the other hand, submitted that the Commercial Clerks were already granted training before appointment under Rule 128 of Indian Railway Establishment Manual Vol-1. Hence they were not required to go under training for appointment as Enquiry-Cum-Reservation Clerk. It is also submitted that on basis of provision contained under Rule 303, as the applicant could not be completed training before 14.01.1992, he could not be granted seniority from before that date. Learned counsel for the applicant has also submitted that the applicant is ~~not~~ entitled for relief, as he joined as E.C.R.C. on 6th April 1991 and before that he was serving ~~as~~ ^{under} Chief Works Manager. It is also submitted that the claim of the applicant is also barred by time.

5. We have carefully considered the submissions of counsel for the parties.

6. The undisputed facts in this case are that applicant was one of 17 candidates for appointment as E.C.R.C., his name ~~was~~ shown at Sl. No. 3 in the panel. He was sent for training, ~~he~~ abide by order and reported at the training institute at Bhusawal. However, the training course could not be carried for want of ~~adequate~~ ^{strength}. The applicant was not ~~at~~ fault at any stage. It is clear that the training was necessary for all the candidates, selected for E.C.R.C irrespective of their ^{source} ~~shows~~. Even the candidates selected from the Commercial Wing ~~were~~ were required to undergo the training. We do not find any exemption either in Rule 129 or Rule 303, thus, the action taken by the respondents by directly appointing the candidates, selected from the Commercial Wing, without training was illegal. The normal ~~rule~~ ^{rule is that in} ~~cases~~ ^{where} ~~were~~ ^{were} required for training,

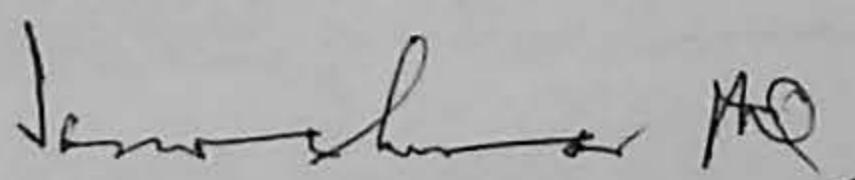
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was required, the seniority ~~is amended~~ on basis of result of the training. However, in the present case, as training was not ~~attained for~~ ^{given to} all candidates, jointly in one group, and the respondents, ~~according to~~ ^{acting in} contrary the rules excluded 9 persons from training, and the ~~is abide by~~ direction suffered when ~~they~~ completed training and allowed to ~~join~~ ^{been made to} joined as E.C.R.C they have ~~not~~ ^{junior} ~~those~~ who were ~~allowed to~~ ^{been made to} illegally to be joined without training. In our opinion, ~~this~~ ^{an} action of ~~the~~ ^{very serious} ~~respondents~~ ~~is~~ ^{served} injustice have ~~been~~ been caused and ~~once~~ ^{to} to the applicant and those who were ~~came from~~ ^{unselected from} ~~selection~~ ^{selection} other then commercial ~~reception~~.

7. In the facts and circumstances of the case, in our opinion, the applicant is entitled for relief. There ~~are~~ ^{is} some delay in approaching this Tribunal. ~~for~~ ^{but on} consideration. The facts and circumstances and the degree of the injustice, caused by illegal action of the respondents, ~~the~~ ^{in the interest of justice} delay deserves to be condoned and we are condoning the same.

8. For the reasons stated above, this O.A. is allowed. The respondents are directed to restore the applicant's seniority on the basis of panel dated 21.2.1991. We make it clear that this direction to restore inter-see seniority among 17 persons, which shall be accordingly to the position in the panel. The applicant shall also be entitled for consequential benefits except back wages.

9. There will be no order as to costs.


Member-A


Vice-Chairman.

Manish/-