

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

विषयक प्रतिक्रिया

Original Application No. 459 of 1998

Allahabad this the 21<sup>st</sup> day of January, 2006.

Hon'ble Mr. J. R. Tiwari, Member-A  
Hon'ble Mr. A.B.S. Rajan, Member-J

A.K. Maurya & Others \* ....Applicant.

(By Advocate : Shri A. Srivastava)

Versus

Mr. Maurya & Others \* .... Respondents

(By Advocate : S/Shri A. Tripathi Sri S.K. Misra)

(\* For details of parties see separate sheet)

O R D E R

By K.B.S. Rajan, J.M.

The legal issue: When an examination was held and was it bifurcated into two portions and consequent training was also imparted in two different batches, should the seniority be in succession on the basis of merit in the examination? Another question is whether a transferee from one seniority to another could find place in the seniority so sandwiched between the aforesaid first and second batch?

2. The facts capsule: For the post of Guard C, a single selection was conducted by the Railway Recruitment Board (earlier known as Railway Selection Commission) in 1981 and the results thereof were in two parts (first part in Sep. 1983 and the second in Feb. 84). Training was imparted to the candidates figuring in the first part of the result first and the second part later. The applicants in this OA figured in the second part of the results and thus, had their training subsequent to the first batch. All the persons who had undergone the training had joined the post of Guard C in the grade of Rs 330 - 560/- the first batch having joined earlier than the second batch.

3. Seniority list of the Guards was published in 1997 and the applicants found that while the persons whose results were declared in the first part had their seniority in their respective position, after their names, instead of placing the applicants and others whose results were published in the second part, names of the private respondents, who were either promotees from the post of Train Clerks or transferees from other Divisions have been reflected. This has, according to the applicants caused heavy loss in seniority of the applicants on the following grounds:-

(a) That since the examination conducted was one and the same and the seniority shall be only on the basis of merit in the said

examination, all those who were selected in the said examination should have their seniority in the order of merit and in succession. This has not been followed.

(b) Those who are transferred from other units are to be afforded seniority only at the bottom of the list and this has also not been followed when the transferees figured in between the first and second batch of the Guards who had qualified in the examination.

(c) Similarly, those who were promoted from the post of Train Clerk had been given their seniority below the certain direct recruits, whose results were declared in the first part but above the applicants.

4. As per the respondents, the seniority list of direct recruit candidates had been made strictly in accordance with the merit in the examination and the seniority list for the guards was published in 1987 and again in 1997. Provision exists for entertaining other Division Guards whose seniority in the new Division would be on the basis of their dates of joining. As those transferees whose seniority position had been inserted between the first and second batch (of the same examination), while the second batch was undergoing training, their seniority has been rightly fixed and as such, the applicants cannot have any grievance over the same. Further, the representations of the

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applicants were already ~~been~~ disposed of vide letter  
 dated 10-06-1998.

5. Arguments heard and documents perused. The position is clear to the following extent:-

- (a) Seniority of the directly recruited guards had been arranged as per merit.
- (b) Seniority of the inter-divisional transferees had been on the basis of their date of entry in the new Division.

6. What has not been clarified is whether the first batch of the successful candidates in the examination consisted of those who were holding higher meritorious position than the second batch? Though the applicants clearly stated vide para 4.3, "That the names of the applicants were placed in the second part of the results dated 20-02-1984 without assigning any reason", no reasons were spelt out in the counter in reply to the above paragraph.

7. A look at the dates of declaration of the results and the date on which the candidates were sent for training would be of use here. The same is as under:-

<u>Batch:</u>	<u>Date of declaration of result</u>	<u>Date of Training</u>	<u>Duration</u>
First Batch	22-09-1983	23-07-1985	9 months
Second Batch	20-02-1984	21-04-1986	9 months.

8. There has been a time distance of about 4 months in the declaration of result but the declaration of the second part of the result is much earlier than the date of training of the candidates declared selected in the first part of the result. No reason has been assigned for delay in their having been sent for training. The vested right of the applicants would get hampered under any of the following two circumstances:-

- (a) If the publication of the first and second part of the result is not based strictly based on the order of merits.
- (b) If the training center at Chandausi could accommodate all the selected candidates in a single batch and yet, the detailing of the applicants at a later date was delayed for no plausible reasons.

10. If any of the above had been occasioned, the seniority afforded to the private respondents should be deemed as at the cost of the hampering of the vested rights of the applicants. Instead, if the above situation is not available ( in other words, if the bifurcation of the result was on the basis of merit and if the dispatch for training in two groups was inevitable due to administrative convenience, then the seniority afforded to the private respondents is fully justified.

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11. In view of the fact that sufficient material is not available on records, the only possibility to do justice to the applicants is to direct the respondents to scrutinize the results of the candidates to ensure that the bifurcation of the result of examination conducted on 22-08-1981 took into account the merit position of the candidates in the examination and further to examine whether detailing of the selected candidates for training in two groups was inevitable. The General Manager, Northern Railway shall undertake this exercise on a time bound basis and in case some more meritorious candidate had been detailed for training in the second batch or in case the bifurcation of the candidates for training was without any justifiable reason, the seniority list for the post of Guard C shall have to be revised as under:-

All the direct recruits would be senior to the other two categories i.e. promotees and transferees. The inter-se seniority of such Direct recruits shall be purely on the basis of their merit, irrespective of the date of their completion of training.

- (b) The promotees shall rank next and their inter se seniority would be on the basis of their panel
- (c) The transferees would figure in as per the date of joining the new Division, but below the seniority position of the promotees.

12. In case the General Manager is satisfied that the vested right of the applicants has not in any way been hampered, (i.e. if the second part of the result is on the basis of the merit position and there was sufficient administrative reason for their having been sent for training after the first part had been imparted training), a comprehensive and speaking order be passed and the applicants informed of the same.

13. The above drill shall be completed within a period of six months from the date of communication of this order.

Under the circumstances, no orders as to cost.

Sd/-  
JM

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**TRUE  
COPY**

*Nageshwar*  
Section Officer (1)  
Central Administrative Tribunal  
Allahabad.

*On 16/11/06*

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