

(OPEN COURT)

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

(THIS THE 14th DAY OF DECEMBER 2009)

PRESENT

HON'BLE MR. JUSTICE A. K. YOG, MEMBER (J)
Hon'ble Mr. S.N. Shukla, Member (A)

ORIGINAL APPLICATION NO. 768 OF 2001
(U/S 19, Administrative Tribunal Act, 1985)

Vijay Kumar Dhawan, S/o late D.P. Dhawan, R/o B.P.
44 Patel Nagar Mughalsarai, Distt: Chandauli.

.....Applicant.

By Advocate: Sri S.K. Dey
Sri S.K. Mishra

Versus

1. Union of India through the General Manager, E. Rly. Calcutta.
2. The Senior D.P.O. E. Rly. Mughalsarai.
3. The D.P.O. E. Rly., Mughalsarai Distt: Chandauli.
4. Bijay Kumar Ojha, Head Clerk U/Section Engineer DSL. E. Rly. Mughalsarai, Distt: Chandauli.

..... Respondents.

By Advocate: Sri K.P. Singh
Sri A.K. Mishra

O R D E R

(DELIVERED BY: JUSTICE A. K. YOG, MEMBER-JUDICIAL)

Heard counsel representing the applicant and the
Counsel appearing on behalf of the respondents.



2. The present OA is with regard to the fixation of seniority of the Applicant vis-à-vis Respondent No. 4/ Bijay Kumar Ojha.

3. According to the applicant when his seniority was disturbed he filed objection/representation which has been decided by means of the impugned order dated 28.03.2008 (Annexure A-11/Compilation No. I).

4. Learned counsel for the applicant argued that impugned order is incorrect ~~as his~~ ^{as senior as} his seniority has not been correctly fixed in as much as the concerned authority have ignored factors like quota and his seniority has been disturbed ^{as well as} without giving opportunity to the applicant to defend him.

5. Copy of his said representation/objection is not on record and, hence, it is not possible for us to ascertain the objections raised. In absence of copy of said objection/representation it is not possible to appreciate that objections now raised by the applicant in this OA or during arguments were raised or not before said Authority. Impugned order therefore, cannot be assailed on 'pleas' which were not pleaded and pressed before that Authority.

6. In view of the above we allow the, applicant to file a fresh 'comprehensive-representation' raising

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all his grievances regarding seniority before respondent No. 2/Senior Divisional Personnel Officer, Eastern Railway, Mughalsarai within a period of six weeks from today and the said authority shall, (provided representation is filed as contemplated/stipulated above) decide said representation in accordance with law by passing a reasoned and speaking order as expeditiously as possible preferable within a period of three months from the date of receipt of said representation.

7. In view of the above the OA stands disposed of.

No cost.

/pc/


Member (A)


Member (J)