

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 290 OF 2004

ALLAHABAD, THIS THE 23RD DAY OF MAY 2007

HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN
HON'BLE MR. K. S. MENON, MEMBER-A

Sobodh Agarwal adult,
Son of Ram Narain Agarwal,
Resident of Balkhandi Naka,
Banda, Uttar Pradesh.

..... Applicant

By Advocate : Shri T. S. Pandey

Versus

1. Union of India,
through General Manager,
Central Railway, Mumbai.
2. Divisional Railway Manager (P),
Central Railway, Jhansi.
3. Divisional Railway Manager (P),
Central Railway, Jhansi.
4. Ravi Kant Mishra, P.W.I. Grade 3
through D.R.M., North Central Railway,
Jhansi.
5. Sunil Kumar Singh J.E.-2 (P Way) through
DRM, North Central Railway,
Jhansi both through Divisional Railway Manager,
Central Railway, Jhansi.

..... Respondents

By Advocate : Shri Anil Kumar Dua

O R D E R

HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN

The applicant is challenging the seniority list dated 25.01.2001 as well as promotion order dated 25.11.2003 by which respondent no.5 was promoted to the post of Permanent Way Inspector/JE.

2. The case of the applicant in brief is that he was initially appointed as JE-II on 18.12.1989 in Western

Railway. He was transferred to Jhansi Division of the Western Railway on 05.09.1995. He was sent to work on probation and the Seniority List dated 25.01.2001 was issued showing that respondent no.5 is senior to the applicant. His representation dated 17.02.2001 for assigning him seniority above respondent no.5 was rejected. He says that on 18.07.2002 he was transferred to North Central Railway on his own request and was posted at Jhansi where the respondent no.5 was already working. The contention of the applicant is that since he was appointed earlier to respondent no.5 in the Western Railway so he ⁴ should be ranked senior to him in the North Central Railway and by not assigning seniority to him over and above respondent no.5 and by not promoting him earlier to respondent no.5, officially, ⁴ the respondents have committed illegality and so this Tribunal should direct them to rectify the same.

3. The official respondents have contested the claim mainly on the grounds that since the applicant has come to North Central Railway on his own request where respondent no.5 was already working so in view of paragraph no.312 of IREM Vol I he would rank ⁵ junior to respondent no.5 and nothing wrong has been done by assigning him seniority below the respondent no.5 and by promoting the respondent no.5 earlier to the applicant. The respondent no.5 has not appeared to contest the claim inspite of service of notice.

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4. Learned counsel for the applicant has submitted that the seniority list dated 25.01.2001 showing applicant ^{as} junior to respondent no.5 is wrong as there is no dispute regarding the ^{fact} applicant ^{that} ~~the~~ applicant was appointed earlier to the respondent no.5 in the Western Railway. He has also tried to say that the representation of the applicant for correcting the seniority list was wrongly turned down and the respondent no.5 was promoted earlier to the applicant. This much is not in dispute that applicant ~~came~~ to the North Central Railway on his own request where respondent no.5 was already working on the same post. In view of paragraph no.312 of IREM Vol I, person coming ^{to} his own request, has to be assigned bottom seniority. From this angle there appears to be no fault in the impugned seniority list dated 25.01.2001. If the seniority list is not faulty then consideration of respondent no.5 for promotion earlier to the consideration of the applicant for promotion to the post of JE-I cannot be said to be contrary to rules.

5. We are of the view, that the applicant has no good case and the OA deserves to be dismissed. Accordingly, the OA being devoid of merit is dismissed. No Costs.

John
23/5/07

Member-A
Member-A 23.5.07

Vice-Chairman

/ns/