

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 29<sup>th</sup> day of March 2011

Original Application No. 956 of 2004

Hon'ble Dr. K.B.S. Rajan, Member (J)  
Hon'ble Mr. S.N. Shukla, Member (A)

D.K. Shukla, S/o late K.D. Shukla, R/o 71-B, St. Stephen Nursery School Road, Mohiddipur, Gorakhpur.

... Applicant

By Adv : Sri B.C. Naik and Sri S.K. Om

**V E R S U S**

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Dy Chief Personnel Officer/Gaz. North Eastern Railway, Gorakhpur.
3. Senior Personnel Officer, North Eastern Railway, Gorakhpur.
4. Principal Chief Engineer, North Eastern Railway, Gorakhpur.

... Respondents

By Adv: Sri K.P. Singh

**O R D E R**

**By Hon'ble Dr. K.B.S. Rajan, Member (J)**

Sri B.C. Naik learned counsel for the applicant. Sri M.K. Yadav brief holder of Sri K.P. Singh, learned counsel for the respondents.

2. The applicant was initially appointed as Section Engineer (P. Way) on 20.04.1995 and due to some personal reasons in the year 2001 he has requested for change of cadre from Section Engineer (P. Way) to Section Engineer (Works). This request was acceded to and the applicant was sent for training on 03.01.2002 and after completion of training on 27.02.2003 he joined the post of Section Engineer (Works), accepting the

*[Signature]*

change of cadre in the wake of undertaking given by the applicant that he would accept the bottom seniority in the changed cadre i.e. in the grade of Section Engineer (Works). In the integrated seniority list, both the cadres are included. In that list also, the applicant's seniority has been lowered which according to him is not correct. While this is one of the grievances, in the alternative, according to the applicant the fixation of seniority from 27.02.2003 is also not correct. According to the applicant, he was sent for training as Section Engineer (Works) w.e.f. 03.01.2002 and hence, his seniority should reckon from 03.01.2002.

3. We have considered the claim of the applicant. The concession availed by the applicant in the change of cadre is on his undertaking to bear the collateral damage, if any, accompanying the concession and the same is loss of seniority. The same bottom seniority has to be maintained in the integrated seniority as well. As such, the claim of the applicant for restoring its seniority in the combined integrated seniority list cannot be accepted.

4. As regards the seniority position in Section Engineer (Works), according to the learned counsel for the applicant, the same is to be reckoned from the initial date of training. The seniority at the initial appointment is governed by para 302 of IREM which reads as under:-

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

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

(E(NG)I-78-SR-6-42 dated 07.04.1982 ACS. 132)

\*\* Renumbered vide Advance Correction Slip No. 2 issued under Railway Board's Letter No. E(NG)I/89/SR6/35 dated 23.8.91.

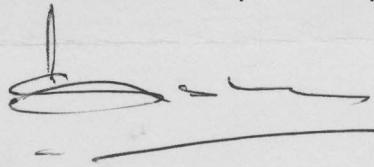
ii. The provision contained in Note (i) above will also apply to the Inter Apprentices and departmentally selected candidates against the quota prescribed in certain categories to be filled by Limited Departmental Competitive Examination (such as 10% in the case of Traffic and Commercial Apprentices)."

[Authority :- Railway Board's letter No. E(NG)I/89/SR6/35 dated 23.8.91]

\*\* Note (ii) Inserted vide Advance Correction Slip No. 2 issued under Railway Board's Letter No. E(NG)I/89/SR6/35 dated 23.8.91."

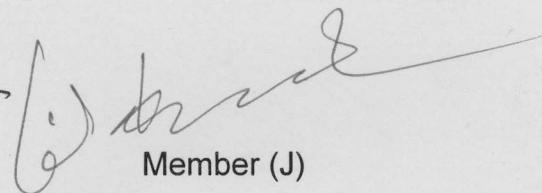
5. The above indicates that the same shall be from the date of appointment to the grade. Note appended to para 302 of IREM gives an inkling that it is the date of actual joining after the completion of training that should govern the seniority position. Be that as it may, if the procedure followed by the department is to give credit to the period of training, the applicant cannot be made an exception; similarly, if the date of joining the actual work the applicant is the criterion, the decision of the Respondents cannot be faulted with.

6. In view of the above the OA is disposed of with the direction to the respondents to verify from the record as to the seniority given to all other Section Engineer (Works) (with or without taking into account the seniority position) and inform the same to the applicant within a period of two months from the date of receipt of a copy of this order. No cost.



Member (A)

/pc/



Member (J)