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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

ORIGINAL APPLICATION NO. 608 of 1986.

Abdul Wadoon Vs. U.O.I and others

Hon'ble D.S.Misra-A.M.

Hon'ble G.S.Sharma-J.M.

(Delivered by Hon'ble D.S.Misra)

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 challenging the seniority list of Guard Grades B and C prepared by the Divisional Personnel Officer, N.E., Railway Izatnagar (respondent no.3) and the order dated 29.11.85 passed by D.R.M.(P), N.E., Railway Izatnagar (respondent no.2)

2. The applicant's case is that he was appointed as Booking-clerk N.E. Railway on 25.12.1964 and was posted at Izatnagar; that on 4.10.1972, he applied for promotion as Guard in response to an office-order dated 12.9.1972 (annexure 1); that in accordance with the Circular dated 6.5.75 issued by the Divisional Superintendent (p) N.E. Railway Izatnagar, the panel for promotion as Guard was to be prepared in order of seniority and according to the quota fixed for different categories of employees; that the applicant was promoted as Guard C by an office order dated September (Nil) 1978 (annexure-4); that the applicant was appointed as Guard Grade-C and posted at Bareilly City vide order dated 30.10.1979 (copy annexure-5); that the applicant was spared on 3.6.80 and joined duty on 12/6/80; that in the impugned seniority list dated 1.4.81, the applicant has been placed at sl.no.114 while one Sri K.C.Saxena who was also goods clerk at Izatnagar and ^{be} junior to him as Goods-clerk ^{be} was placed at sl.no. 90 (copy of seniority list at annexure-7); that the applicant made a representation on 3.6.81 claiming seniority over his juniors and he also made a representation to the Divisional Railway Manager on 1.9.81 and again on 9.3.82; that by order dated 29.11.1985, the Divisional Railway Manager had rejected the representation ^{be} of the applicant (copy annexure-12). The applicant has prayed that the order dated 29.11.1985 be quashed and the respondents be directed to prepare a fresh seniority list on the basis of the seniority of the incumbents of the commercial section on the,

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basis of 20 percent quota of commercial category with effect from 1974.

3. In the reply filed on behalf of the respondents, it is stated that all the records of applications received in response to the letter dated 12.9.1972 have been burnt in the fire which occurred in February, 1980; that the letter dt. Sept. (nil) 1978 is not a promotion order as alleged by the applicant in para 6 of the application, but it is a letter to send the staff ^{for training} from 28.9.1978 at Zonal Training School Muzaffar pur; that in the seniority list of Guard-C as on 1.4.81, the applicant was placed at sl.no.114; that on a consideration of the representation of the applicant, he has been placed at sl.no.108 giving him the seniority above the commercial staff junior to him; that Sri K.C.Saxena who is at sl.no.90 in the seniority list of Guard-C had passed his Guards' promotion course in 1978 and he was promoted *be* as Guard on 14.9.1968 whereas the applicant was promoted on 30.10.1979; that the date of joining of the applicant as *be* goods clerk has nothing to do with his seniority as Guard Grade C under para 320 of the Railway Establishment Manual that the seniority of the applicant has been rightly determined and the order dated 29.11.1985 passed on his representation dated 6.11.1985 is a speaking order passed in accordance with the rules, laid down in para 320(A) of the Railway Establishment Manual.

4. Rejoinder affidavit was filed on behalf of the applicant in which the allegations made in the original application were reiterated.

4. We have heard the arguments of the learned counsel for the parties and have also perused the record. The main point urged by the learned counsel for the applicant is that *be* the applicant was senior to Sri K.C.Saxena in the cadre of *be* goods-clerk and therefore, on promotion as Guard Grade-C he should be senior to Sri K.C.Saxena. The applicant's contention is that he was also promoted to the post of Guard grade C in the year 1978 along with Sri K.C.Saxena. We have considered this contention of the applicant and we find that this contention is not correct. In the letter dated 29.11.85

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of Divisional Railway Manager (P) Izatnagar, in reply to the applicant's representation dated 6.11.1985, it is clearly stated that Sri K.C.Saxena was promoted as Guard one year before the promotion of the applicant. Sri K.C.Saxena was appointed as Guard Grade-C vide order dated 14.9.1978 after he had completed and qualified in the Guards' training prior to his appointment as such. On the other hand, the applicant was selected for training which was to start from 28.9.1978 sometime in Sept.1978. In this selection, the name of Sri K.C.Saxena does not find place. Obviously, Sri Saxena was selected for training on an earlier date and he passed his training before the applicant was approved for being sent on training.

6. From the above narration, we are of the opinion that the applicant's claim for seniority over Sri K.C.Saxena is misconceived. The application is dismissed without any order as to cost.

Member (A)

JS/28.8.1987

Member (J)