

43/1

Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No.488 of 1986(Suit No.387 of 1975)

Madan Lal and 9 others ... Applicants

Vs.

Union of India & 8 others ... Respondents.

Hon.D.S.Misra, AM

Hon.G.S.Sharma, JM

(By Hon.G.S.Sharma, JM)

This transferred application is original suit and has been received on transfer from the Court of IXth Munsif Varanasi under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The suit was filed on 2.9.1975 for permanent injunction to restrain the railway administration and its officers- defendant nos. 1 to 3 from promoting Santokh Singh and 8 other private defendant nos. 4 to 9 under letter no.874 E-1/10 dated 4.3.1974 to the post of Chargeman in supersession of the seniority of the plaintiffs with the allegations that in pursuance of the decree passed in suit no.197 of 1968 -Ram Tirth Joshi and others Vs. Union of India and others filed in the Court of Munsif Haweli Varanasi, the railway administration had prepared a seniority list of Highly Skilled Fitters (for short HSF) Grade I which was circulated under letter dated 22.3.1970 and subsequently became final. The allegations of the plaintiffs is that in disregard of the seniority of the plaintiffs determined in that order, the defendant nos. 1 to 3 wanted to promote the defendant nos. 4 to 9 earlier than the plaintiffs. The plaintiffs ^{claimed} themselves to be senior to the private defendants.

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3. In the written statement filed on behalf of the defendant nos. 1 to 3, it was pleaded that the seniority list issued under letter dated 22.3.1970 was provisional and it was clearly indicated that the said seniority list was liable to change if the seniority list of HSF Mechanical Grade II issued on 5.2.1970 was revised. Defendant nos. 3 to 9, for some reasons or the other, were not trade tested when the trade test of their juniors were undertaken at different intervals and according to the decision taken in the PNM meeting the cases of senior persons for promotion who were overlooked earlier were considered and after the trade test, ~~the~~ such successful officials were given their due seniority and they became senior to the plaintiffs. The afore-said persons, namely, defendant nos. 5 to 9 were accordingly promoted and the suit of the plaintiffs is not maintainable. The defendant nos. 4 to 9 were impleaded during the pendency of the suit and in the written statement filed by them, they also disputed the claim of the plaintiffs regarding their seniority over them. After the transfer of this petition to the Tribunal, the defendant nos. 6 to 9 moved an application before us stating that the defendant nos. 4 to 9 were further promoted to the post of Chargeman in pursuance of letter dated 7.8.1975 of the Railway administration and the relief claimed by the plaintiffs became infructuous. They accordingly applied for the dismissal of the suit. The plaintiffs also moved an amendment and instead of relief of permanent injunction, they claimed a relief for declaration to the effect that the seniority list dated 22.3.1970 was final and conclusive and the defendants be restrained from superseding them and disturbing the position allotted to the plaintiffs in that seniority list under the seniority list dated 1.9.1975 issued in violation of the decree in suit no.197 of 1968 and the said seniority list dated 1.9.1975 be declared illegal and ultra-vires. This amendment application was opposed on behalf of the defendants and it was ultimately rejected

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by this Bench.

4. In view of the broad facts stated above, it is clear that the plaintiffs wanted the defendant nos. 1 to 3 not to promote the defendant nos. 4 to 9 as Chargeman in supersession of their seniority. Admittedly, the defendant nos. 4 to 9 were promoted as Chargeman after ^{the} filing of the suit and as such, the suit has become infructuous and the permanent injunction claimed by the plaintiffs cannot be granted even if the seniority of the defendant nos. 4 to 9 refixed over the plaintiffs was not correct. Thus, without deciding the question whether the subsequent seniority list dated 1.9.1975 prepared by defendant nos. 1 to 3 under which the seniority of the plaintiffs was changed was correctly prepared or not, the suit has ^{be} dismissed as infructuous. If not otherwise debarred due to law of limitation or any other valid reason, the plaintiffs may reagitate the question of seniority over the defendant nos. 4 to 9 in any other proceeding as and when they like to do so.

5. The suit having ^{become} ~~been~~ infructuous, is accordingly dismissed without any order as to costs.

Bhama
29.1.88

MEMBER (A)

Indharana
29.1.1988

MEMBER (J)

Dated: 29th Jan. 1988
kkb

Indharana
29.1.88