

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Transfer Application No. 983 of 1987

Soti Ram and Others Applicants

Versus

Union of India and Others Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C

Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants have filed a writ petition before the High Court claiming the relief of mandamus commanding the respondents to prepare combined seniority list of Clerical staff (Except Accounts Department) of Diesel Locomotive Works, Varanasi and thereafter to give the staff covered by the Seniority list, the benefit of promotion and other benefits admissible to staff in accordance with rules with retrospective effect deciding the representation of the applicants in that regard.

2. During the pendency of the writ petition, the representation was decided by the Chief Personnel Officer and thereafter the applicants moved an amendment application which were allowed as early as 8.9.83 in which their main contention that the orders would not have been passed by the Competent Authority i.e the Railway Board but by the General Manager who has disposed of the representation had no jurisdiction to

decide the matter. The whole plea of discrimination was reiterated. The respondents are acting in violation of Article 14 and 16 of the Constitution of India and their action is discriminatory. It appears that Diesel Locomotive Works is a Production Unit under direct control of Ministry of Railways (Railway Board). Earlier these Locomotive Works staff were procured from diverse sources viz: on transfer from open line railways/ Production Units, on transfer from Projects/ Constructions and by direct recruits etc. Initially there were 3 production units where staff councils were organised.

3. The applicant no.1 was appointed as Clerk in the grade Rs.110-180(AS) in North Eastern Railway on 1.5.1959. He came on transfer in his same capacity and grade and joined Diesel Locomotive Works on 11.11.63. The applicant no.2 was appointed as clerk in the grade Rs.110-180(AS) in the Locomotive Component Works Varanasi on 30.5.58 and when the Diesel Locomotive ^{Works} came into force w.e.f. 1.8.61 he was taken over in Diesel Locomotive Works. In the year 1962 vide G.M/D.L.W's Circular letter No. 27/147/58E dated 17/20.10.62 & 24.10.62 to separate the clerical cadre of Establishment (Personnel Branch), branch was separated from that of other branches for the purpose of avenue of advancement in terms of Railway Board's letter dated 8.8.57. In the year 1965 the clerical cadre of Stores Deptt was separated from that of other departments for the purpose of avenue of advancement and 2 units for channel of promotion were formed in the Stores Department. In the year 1962 the Seniority Unit

of Personnel group and in the year 1965 the cadre of Stores Department consisting of seniority unit and stores group I and group II were separated and since then the clerical staff have been working in 4 seniority units. After formation of the units seniority units of both the groups have been separated and ultimately those who were juniors have got the higher channel of promotion. Feeling aggrieved against the same the applicants agitated the matter and filed the writ petition.

4. The respondents have opposed the writ petition, and stated that the seniority unit upto the post of Head clerk grade 425-700 are separate for the purpose of avenue of advancement and the staff on one group cannot be promoted to another group. Although the dates of initial appointment of these staff working in Stores group II are later than that of applicant no.1 who came on transfer from North Eastern Railway and working in Stores group I but they were promoted to the post of Head clerk on account of availability of posts whereas the applicant no.1 has promoted to the post of Head clerk on adhoc basis. Therefore in the combined seniority list as they occupied regular posts as Head clerk they will rank senior to the applicant who could not find place in that combined seniority list as his promotion to the post of Head clerk was on adhoc basis.

5. The Diesel Locomotive Works Varanasi has also adopted the same principle of one trade one seniority but introduced and applied the said principle in the case of technical staff only. There is no directives of Railway

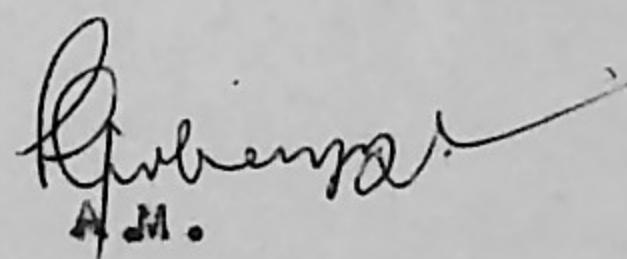
Board adopting the policy and to give definite direction to the respondent no. 1 to bifurcate the clerical staff into 4 categories. However it is submitted that Diesel Locomotive Works administration had decided the principle one trade one seniority in the year 1972. While deciding the representation the resolution passed by the counsel has not been taken into consideration. The Integral Coach Factory Madras is a big production unit in as much as it has got staff about 18000 whereas Diesel Locomotive Works Varanasi has got staff about 7500 in all trade including clerical trade. It is further stated that except Integral Coach Factory no combined seniority of Clerical staff is maintained on any railway or production unit as the same is against the orders of Railway Board. It is submitted that formation of 4 seniority units of clerical staff working in Diesel Locomotive Works have correctly been determined for their avenue of advancement. Since the formation of combined seniority list of clerical staff is against the orders to railway board the question of any loss being caused to the applicants does not arise. The applicants have not shown what legal rights have been infringed against which they have gone with the petition. In view of the facts, the applicants have not made out any case and they are not entitled for any relief sought for.

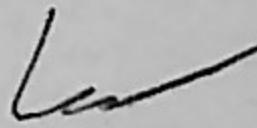
6. It is not a case in which the applicant unwillingly was shunted to another cadre and he wanted to come back in this cadre or that he has a particular right in this cadre but he was not given promotion on this side. As the decision was taken much earlier and it cannot be said that the decision was arbitrary or with no reasonable nexus sought to be achieved.

In order to build the cadre the staff were procured from diverse sources on transfer from open line railways/Production Units, on transfer from Projects/ Construction including Locomotive Component Works and by direct recruitment. In these complex situation prevailing in Diesel Locomotive Works, the rules contained in Establishment Manual and Code were not adequate to determine the relative seniority of staff so procured from diverse sources. The Seniority and Promotion of the staff has already been determined in terms of the provision contained in Advance Correction Slip No. 70 to Indian Railway Establishment Manual and Railway Board's letter dated 24.9.75 and 19.2.77. The four seniority groups of Ministerial staff of Diesel Locomotive Works have been framed in view of the Railway Board's instructions and considering the nature of work involved in these seniority groups. It is submitted that as already indicated in the counter affidavit that the combined seniority of all the clerical staff maintained in the Integral Coach Factory Madras is against the Railway Board's orders issued from time to time and they are also proposing to bifurcate the seniority lists in different groups. It is submitted that the Diesel Locomotive Works Varanasi, is a Production Unit, the combined seniority list on the basis of one trade one seniority has been prepared for technical and other staff except the clerical staff. This discrimination is not based on any reasonable classification rather arbitrary action has been taken to bifurcate the seniority of clerical staff into 4 groups although in the sister concerned i.e. Integral

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Coach Factory, Madras, the combined seniority list for clerical staff on the basis of one trade one seniority has been prepared and maintained. The chief Personnel Office, of Diesel Locomotive Works, Varanasi is no authority to decide this question merely because the Chief Personnel officer is the head of personnel branch. The formation of four seniority units of clerical staff working in Diesel Locomotive Works (other than Accounts Department) is in accordance with the orders issued by the Railway Board from time to time as indicated in earlier. The seniority of the staff in these four seniority units have correctly been determined for their avenue of advancement since the formation of combined list of clerical staff is against the orders of the Railway Board. In view of the facts brought out above the applicants have not made out any case and they are not entitled for any relief sought through this petition. Accordingly the application is dismissed with no order as to the costs.


A.M.


V.C.

Dated: 10.8.1992:

(Uv)