

(5) (12/1)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 186 of 1988

Syed Waris Ali Applicant.

Versus

General Manager, Central Railway
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

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

By means of this application, the applicant has claimed seniority over the respondent no. 3 and his representation in this behalf was rejected thereafter he has approached the Tribunal and an interim order was ^{granted} to him by the Tribunal for maintaining the status-quo. The applicant was appointed as Pointsman w.e.f. 5.12.1955 and was promoted as Second fireman in the year 1961, while the respondent no.3 was engaged in the Railway as Khalasi Loco on 24.7.1962 i.e. seven years later than the applicant. The applicant was promoted as Fireman-B grade on 19.3.1971, whereas the respondent no.3 continued to be the second fireman only. The applicant was selected as Fireman-A grade and after the empanelment, he was promoted w.e.f. 5.3.1973 and the respondent no.3 also appeared in the said test but failed. The applicant was placed at Sl. No. 40 in the list of substantive-A grade fireman but subsequently, was placed below Nawab Khan in the list by the respondent no. 1, and in the panel, the name of the respondent no.3 did not find place. The respondent no. 3, thereafter, filed a suit in the

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in the Civil Court and a decree was passed in his favour to the effect that he will also be empanelled in the panel of Fireman Grade-A. He filed yet another suit, in which the applicant was not a party but the Railway Administration was party in which a direction was also granted by the court of Munsif that he be uplifted and placed in the list of Shunter/Driver C Grade. The said respondent wanted that in the panel, ^{he} may be placed below one Dharam Pal Jhanddo who stood at Serial No. 46 in the panel.

2. The respondent Railway Administration has not filed any reply but the private respondents have filed the reply and he has stated that as a matter of fact he should have been empanelled but he was wrongly not empanelled. He approached to the Civil Court and there being a decree in his favour, he was rightly promoted. The applicant not being a party in the decree the decree was not binding on him. Even if the respondent succeeded in the Civil Court, his success did not mean that he would jump over those who were senior to him. In the list which was referred to above, the applicant was at No. 40 and the respondent was placed at No. 47, and accordingly he could not have jumped over the applicant.

3. Accordingly, the respondent no. 3 shall not be placed above the applicant but he can be placed just below the applicant in case there is no other contest in this behalf. The application is disposed of with the above terms. No order as to costs.

Member (A)

Vice-Chairman