

RESERVED

Central Administrative Tribunal, Additional Bench

ALLAHABAD

Dated: This the 6 day of January, 1997

CORAM : Hon'ble Mr. S. Das Gupta AM
Hon'ble Mr. T. L. Verma JM

ORIGINAL APPLICATION NO. 877 OF 1992

1. Hari Narain Pandey s/o Mahesh Narain Pandey
2. Raghunath Prasad s/o Pyali Ram.
3. Brij Kumar Sahu s/o Devata Deen Sahu.
4. Pavan Kumar s/o Shambhu Nath.
5. Balak Ram s/o Kamta Prasad.
6. Ashok Kumar Chaurasia s/o Kailash Chandra.
7. Radhy Shyam Verma s/o Bhaiya Ram Verma.
8. Jamaluddin Khan s/o Mohd. Hanif Khan.
9. Mohd. Ansari s/o Abdul Samad Ansari
10. Mahendra Kumar s/o Bahadur Lal.
11. Iftedar Ahmad s/o Ifttekhar Ahmad.
12. Sheo Shanker Patel s/o Bhairo La.
13. Deen Dayal Sharma s/o Ram Narain Sharma
14. Dinesh Kumar Verma s/o Kedar Nath Verma.
15. Virendra Kumar Sharma s/o Late Sudama Sharma.
16. Kailash Chandra s/o Guljari Lal.
17. Avinash Chandra Misra s/o Daya Shanker Misra.
18. Purshottam Singh s/o Ram Bhavan Singh.
19. Om Prakash Nishad s/o Ram Kishun Nishad.
20. Mehi Lal son of Ram Sukh.
21. Sushil Kumar Srivastava s/o Sant Pd. Srivastava.
22. Jabar Singh son of Ram Singh
23. Arvind Kumar Sharma s/o Gaya Pd. Sharma.
24. Raj Kumar Srivastava s/o Parmatma Pd. Srivastava

VERSUS

1. Union of India through General Manager,
Northern Rly, Baroda House, New Delhi.
2. Chief Engineer (T&P), Baroda House,
Northern Railway, New Delhi.
3. Senior Engineer, Concrete Sleeper Plant,
N.R., Subedargunj, Allahabad.
4. Dy. Chief Engineer, N.R. Subedargunj
Concrete Sleeper Plant, Allahabad.
5. Pancham Singh s/o Nankoo Singh
6. Arun Shanker Gupta s/o T. N. Gupta
7. J. D. Sharma s/o R. B. Sharma
8. Ramesh Kumar Bhatt s/o S. N. Bhatt
9. Ram Krishan s/o Ram Kishore
10. Chobey Lal son of Badka Prasad
11. Chandresh Kumar Pandey s/o Raghu Nath Pd. Pandey
12. Pramod Ratan Khare s/o S. R. Khare.
13. Mahesh Chandra Yadav s/o Chhotey Lal
14. Kailash Nath Singh s/o Rupa Singh
15. Shambhoo Prasad s/o Khaili Ram
16. Warsi Ali s/o Gulam Waris
17. D.K.Soni s/o Triveni Prasad.

- - - - - Respondents

All khalasis in Concrete Sleeper Plant
Subedargunj, Allahabad.

C/R Sri Lal Ji Sinha, Sri A.K.Gaur
Sri A.K.Sinha, Sri Ashok Khare
and Sri Saumitre Singh.

W.L.

(3A)

18. Shiv Shanker Vishwakarma son of T.P. Vishwakarma
19. Uggan Prasad son of Hari Pal
20. Tarak Kumar Haldar son of G.C. Haldar
21. Munna Lal son of Jaggu Ram
22. Subhash Pal son of B.C. Pal
23. Krishna Kumar son of Ganga Prasad
24. S.M. Chobey S/O R.K. Chobey
25. Amar Nath S/O Ram Awatar
26. Bhagwan Des son of Shiv Saren
27. Ravindra Pal Singh Bhatia son of K.S. Bhatia
28. Ram Ashrey son of Ram Lotan
29. Ram Janam Singh son of S.M. Singh
30. Rangi Lal son of Hargun
31. Rajendra Kumar Jaiswal son of C.D. Jaiswal
32. S.D. Mishra son of Dulry Mishra
33. Seva Lal son of Singh Narain
34. Ram Sunder son of Gajadhar
35. Pancham Ram son of Ram Nath
36. Mishri Lal son of Ramlal
37. Jogendra Singh son of Gurbuchan Singh
38. Chedu Lal son of Jagrewar
39. Sukhdev Singh son of Sadi Singh
40. Hira Lal son of Abhey Lal
41. Rajendra Swaroop son of Jagannath Prasad
42. Ranjeet Singh son of Nayan Singh
43. Vishwanath son of Purshottam
44. Lalji Shukla son of Banwari Lal
45. Balbir Singh son of Karan Singh
46. Ram Sen son of Ram Suhawan
47. Bhriku Nath son of Purshottam
48. Dev Narain Son of Nanku Yadav

Incorporated
vide entry no. 2
dt. 9.11.95 & 7.5.97.
R.K.
13-5-97

R.

49. Matru Lal son of Ram Bharosey
50. Babu Lal son of Chedi lal
51. Raghu Nath son of Bhagirathi
52. Shyam Sunder Tiwari son of H.M.Tiwari
53. Ajay Kumar Bhattacharya son of N.C.Bhattacharya
54. Pottam Vishwakarma son of Matru Vishwakarma
55. Ram Vishal Maurya son of Ram Avtar Maurya
56. Ashish Kumar Dey son of S.K.Dey
57. Daya Ram son of Ram Sumer
58. Mahendra Pandey son of Dulare Pandey
59. Ram Tapeswar Singh son of Jageswar Singh
60. Baij Nath son of Dashrath Lal
61. Shyam Sunder Pal son of Ram Dass Pal
62. Vishwanath Mishra son of Sukku Mishra
63. Raj Kumar Thakur son of Sita Ram
64. Aditya Prasad Shukla son of R.S.Shukla
65. Shyama Charan son of Suggi Lal
66. Gulab Chand son of Ram Khilawan
67. Om Prakash son of Mohan lal
68. Rati Lal son of Raghuvir
69. Ramesh Chandra son of Sarju Prasad
70. Bhola Nath son of Ram Nath
71. Arvind Kumar Dewadi son of R.R.Dwadi
72. Suresh Chandra Pal son of J.P.Pal
73. Pratap Singh Negi son of B.S.Negi
74. Sharda Prasad son of Ram Vishal
75. Nand Kishore Singh son of Vasudev Singh
76. Balmiki Mistri son of Hira Lal Sharma
77. Subrat Parua son of R.K.Parua
78. Umesh Chandra Srivastava son of Lakhp

(3C)

79. Hital Ram son of Kalideen
80. Komal Singh son of Mehtab Singh
81. Bhuneswar Prasad Tripathi son of R.P.Tripathi
82. Prem Chandra son of Dwarika Prasad
83. Hari Karan Singh son of Karan Singh
84. Brij Lal son of Bhandu Lal
85. Ram Dev son of Nandan Prasad
86. Ghanshyam ji Khuswaha son of Kundan Lal
87. Subedar Singh son of Raghuraj Singh
88. Prem Chandra son of Rajaram
89. Vikram Singh son of Ram lal
90. Ram Khilawan son of Mohan lal
91. Ramdhan son of Ram Sharosey
92. Bansi Lal son of Kaly Ram
- ~~92. xxxxxxxx~~
93. Gunni Lal son of Ram Nath
94. Ram Asrey so of Sitea Ram
95. Shital Prasad son of Sukhdev
96. Shiv mani son of Kallu
97. Baij Nath II son of Ram Jatan
98. Mahaday Pal son of Ram Sunder
99. Shiv Prasad son of Bhagwati
100. Brijesh Kumar sof of R.K.Vidyarthi
101. Son Dev son of Niwasi Ram
102. Ram Jiawan son of Sehdev
103. Ram Awadh Singh ¹adav son of P.S. ¹adav
104. Daud Khan son of Mahmood Khan
105. Phool Chandra son of Mehngu
106. Virendra Singh son of Ram Sajiwan Singh
107. Kukul Dutta son of M.M.Dutta
108. Ram Narain Singh son of Sukkhu Singh
109. Ram Sevak son of Jagru
110. Promod Kumar Bhatnagar son of P.S.

(3D)

111. Gaya Prasad son of Chulbul
112. Subedar Gautam son of Shree Prasad Gautam
113. Udal Prasad son of Chanka
114. Nani Ram son of Guru Prasad
115. Jagdish Narain Khanna son of M.C.Khanna
116. Ram Niranjana Singh son of Shitla Prasad
117. Shiv Shankar Ramson of Sarju Ram
118. Shvi Ram son of Ramadhar
119. Rajendra Kumar Dubey son of R.B.Dubey
120. Shiv Baran son of Baladin
121. Brij Nandan Thakur son of Pokhan Thakur
122. Shbiah Ahmad son of Mohd. Aslam
123. Ashok Kumar Sharma son of D.C.Sharma
124. Shree Nath son of Saling Ram
125. Rilak Dhari son of Nigai
126. Ram Dulare son of Shiv Balak
127. Pritam Singh son of Dungar Singh
128. Dharam Raj son of Dassu
129. Gauri Shankar son of Brij Bhushan
130. Gopalji Seth son of M.D.Seth
131. Raja Ram son of Dasha Ram
132. Jagannath son of Gorha
133. Ram Lekhan son of Pyare Lal
134. Jeet Lal son of Hanku
135. Prabhu son of Bachu
136. Dev Raj son of Raghuvér
137. Gaya Prasad son of Jorukhan

pc

ORDER

By Hon'ble Mr. S. Das Gupta A.M.

This application was filed under section 19 of the Administrative Tribunals Act, 1985 jointly by 53 applicants, seeking quashing of order dated 17.2.1992 by which 43 employees have been promoted to skilled grade III against 25 percent of I.T.I. quota. They have also prayed that a direction be issued to the respondents to promote the applicants in ^{the} light of the order of the Tribunal and also to prepare interse seniority list and to promote the applicants on the basis thereof. Several other reliefs have also been prayed for including payment of salary/back wages and treating the applicants' seniority from the date of their joining.

2. All the applicants were engaged as Khalasi in the Concrete Sleeper Plant, Subedargunj. They were appointed after selection pursuant to certain advertisement issued by the respondents. They were on probation for a short period, on completion of which they acquired temporary status and appointed against temporary. Aggrieved by certain promotions ~~of~~ the Skilled ~~of~~ of certain other khalasis, present applicants filed O.A. 264/90, which was disposed of by the order dated 18.2.1992 with certain directions. The grievance of the applicants is that the respondents did not comply with the aforesaid directions and passed the impugned order dated 17.2.1992, whereby juniors to the applicants have been promoted, while the applicants, though senior to them have not been given seniority to which they are entitled. The present case is a very good example of how a relatively simple issue can become wholly confused as a result of parallel litigation. The same

W.C.

applicants had earlier filed O.A. No. 264/90, claiming seniority over all the other promoted casual khaleasis. This O.A. was disposed of by order dated 18.2.1992, which also disposed of ^acontempt application, which was filed by these applicants bearing no. 16 of 1990. In the aforesaid order, a direction was given to the respondents to promote the applicants to the Skilled grade III without calling upon them to appear in the trade test as they were I.T.I. qualified direct recruits against 25 percent vacancies in the skilled grade. It was also directed that interse seniority of the applicants and promotees will be regularised in accordance with the extent rules, if any.

3. Thereafter, these applicants again filed Misc. application no. 738/92 alleging that the directions of the Tribunal have not been complied with and on this Misc. application, suomoto contempt proceedings were initiated against the respondents. This Misc. application was finally disposed of by order dated 26.9.1994, directing the respondents to promote 12 more applicants by accomodating 12 non applicants, who have been promoted by order dated 17.2.1992, against other vacancies or in absence of such vacancies, by reverting them to the extent necessary. Thereafter another Misc. application no. 2344/95 was filed by the same applicants, claiming clarification of the order dated 26.9.94 with regard to the interse seniority of the applicants vis-a-vis promotees. Since it was already mentioned that the interse seniority would be determined according to extent rules, it was considered that there was no ambiguity in the order and therefore, no further clarification was required. The Misc. application was accordingly rejected.

4. In the meantime, the present application had been filed on the same controversy for the reliefs aforementioned. The substantive question already stands

W.L.

settled by the Tribunal's order dated 18.2.1992 in O.A. No. 264/90 and also the order in Misc. application no. 738/92.

5. During the course of hearing, all the parties agreed that only ~~the~~ issue, which now requires to be adjudicated is how the interse seniority of the applicants vis-a-vis promotee khalasis shall be determined. In the successive orders, it was held that such seniority shall be regulated by the extant rules, if any. We have since perused ^{the rules} regulating seniority of non-gazetted railway servants in Chapter III ⁱⁿ of Indian Rlys Establishment Manual Vol. I. Para 302 of this Chapter states that seniority among incumbents to the posts in a grade is governed by the date of appointment to the grade. This rule of seniority is applicable to the initial recruitment grades as well as the promotional grades. We, therefore, dispose of this application with ~~the~~ the direction to the respondents that the seniority of the applicants vis-a-vis promotees be regulated according to this rule of seniority. We hope that with this direction, entire controversy will set at rest once for all. Parties shall bear their own costs.


J.M.


A.M.

SOI