

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 21st DAY OF MAY 2001

Original Application No.602 of 1993

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

1. Raghuvir Singh, a/a 47 years
S/o Shri Nand Kishore

2. Umesh Chandra Tewari, a/a
44 years, son of Shri Mahesh
Chandra

3. Kamlesh Kumar, a/a 41 years
Son of Shri Munna Lal

All working as Mistry Painter at
Central Railway, Jhansi Workshop

... Applicants

(By Adv: Shri A.K.Dave)

Versus

1. Union of India through the
Secretary, Ministry of Railways
Rail Bhawan, New Delhi.

2. The General manager
Central Railway, Bombay V.T.

3. Chief Workshop Manager
Central Railway workshop
Jhansi.

... Respondents

(By Adv: Shri A.V.Srivastava)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA the applicants have challenged various orders

Annexures A1 to A4. By order dated 26.3.1990 Annexure A1
and decision of taken by Railway Board for *preparing a list* retaining seniority has been communicated.

It provides that it has been decided to assign seniority

to the departmental candidates on the basis of the date of the date of promotion to skilled grade III and to directly recruited trade apprentices from the date of joining the working post in skilled grade III. So far as this order is concerned, it has been submitted by Shri A.V.Srivastava learned counsel for the respondents that on 13.11.1982 Railway board issued letter to determine seniority w.e.f 1.8.1978 which was challenged in OA 498/86 before Kolkata bench. The matter ultimately reached before the Hon'ble Supreme Court in the shape of civil appeal no.642-A of 1988. Hon'ble Supreme court decided civil appeals no.642 and 642-A of 1988 by the following order dated 12.2.1992. The order is being reproduced below:

"Leave granted in both the special leave petitions.

In view of the decision taken by the Ministry of Railways(Railway Board) by order dated 26.3.1990(which is placed on record) all the above appeals are disposed of in terms of the said decision. There will be no order as to costs."

The result was that the decision of the Board taken on 26.3.1990(Annexure 1) impugned in this OA has already been upheld by Hon'ble Supreme Court and it cannot be questioned.

The second order under challenge by which the seniority preparation of the amended seniority list, in pursuance of the order of the Board upheld by Hon'ble Supreme Court. List has been published in the light of the Board's decision dated 26.3.1990.

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The third order is dated 28/2.11.1992 by which the amended seniority list of skilled painter grade II and grade III has been published showing the dates of their proforma promotion and seniority.

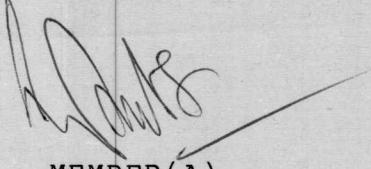
The last order under challenge is order dated 16.1.1993 by which three applicants have been reverted from the post of adhoc Mistry Painter in the grade of 1400-2300 to skilled painter Grade I in the grade of 1320-2040. All these orders have been passed in pursuance of the order of the Board dated 26.3.1990 which has been upheld by Hon'ble Supreme Court. The applicants were only given ad hoc chance ~~in view~~ under the provisional seniority list. However, as the seniority list has been amended subsequently they became junior and the seniors have been rightly promoted.

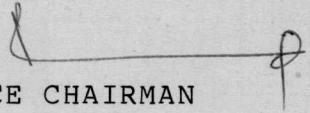
Shri A.K.Dave learned counsel for the applicant, however, submitted that the order of reversion has been passed without giving applicants any opportunity of hearing and thus the order is void. Reliance has been placed in case of Ram Ujare Vs. Union of India, 1999 SCC(L&S) 374. We have considered the submission made by the counsel for the applicant, however we are not convinced. In the facts and circumstances of the present case, in fact effect has been given to the order of the Railway Board dated 26.3.1990 on which basis civil appeals no.642 and 642-A were decided. The order of the Board thus merged in the order of the Hon'ble Supreme court and the same has been implemented by the orders challenged in this OA.

In the circumstances, in our opinion no opportunity of

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hearing ~~was~~ required to be given. The order thus do not suffer from any error of law. The OA has no merit and is accordingly dismissed. There will be no order as to costs.


MEMBER (A)


VICE CHAIRMAN

Dated: 21.5.2001

Uv/