

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH: ALLAHABAD

ORIGINAL APPLICATION NO. 835 OF 1995

FRIDAY THIS THE 3RD DAY OF JANUARY 2003

HON. MR. JUSTICE R.R.K. TRIVEDI, VICE CHAIRMAN

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

James Massey aged about 30 years
s/o Shri T.N. Massey r/o c/o Shri
T.N. Massey, House No. 501-B, Double
Storey, Railway Colony, Bhatyari Bagh,
Saharanpur.

...Applicant.

(By Advocate:-Shri Rakesh Verma)

V E R S U S

1. Union of India through the
General Manager, Northern Rly.
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Ambala Cantt.
3. The Divisional Personnel Officer,
Northern Railway, Ambala Cantt.
4. Shri Vijay Kumar aged about 38
s/o Shri Madho Ram, working
as fitter Grade III and posted under
the control of coaching Depot
Officer, Northern Railway ,
Ambala Cantt.

.....Respondents

(By Advocate:-Shri Anand Kumar and P. Mathur)

O R D E R

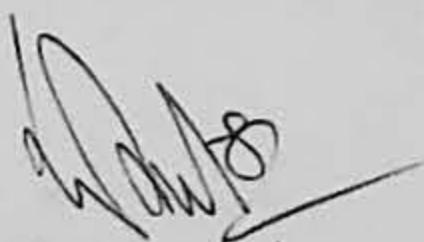
HON. MR. JUSTICE R.R.K. TRIVEDI, VICE CHAIRMAN

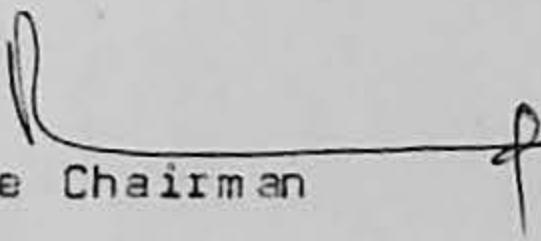
By this O.A under Section 19 of Administrative Tribunals Act, 1985, applicant has challenged the panel dated 13/17-7-95 (Annexure A-I) by which respondent No. 4 was included for being promoted as Train Examiner. Applicant has also prayed that respondent No. 3 may be directed to include the applicant in the seniority list of Fitter Grade-III.

Shri P. Mathur/has placed before us copy of the order dated 12-3-1998 by which applicant J.M.Massey, mentioned at Sl. No. 2, has also been promoted as Train Examiner from the post of Fitter Grade-III. As the applicant has been granted relief of promotion, now only question remains whether the exclusion of name of the applicant in the impugned panel suffered from any illegality. The case of the applicant is that he was Senior to respondent NO. 4 and his name was wrongly included by ~~altering~~ seniority during pendency of the selection on 7-4-1995 (Annexure CA-I). Shri P. Mathur, learned counsel for the respondents, on the other hand, submitted that applicant had full knowledge of the order dated 7-4-1995 and he even filed representation against the same, by a Telegram, another person known as Jaipal, Fitter Grade -III also challenged by making an application. Both were decided by order date 21-8-1995. It was mentioned that respondent No. 4 should have been promoted along with his juniors on 1-11-1990. Thus, he was found entitled for Seniority from the date of his juniors were promoted and the seniority list was corrected. It is not disputed that the applicant was promoted on 20-12-1990 as Fitter Grade-III. The orders dated 7-4-1995 and 21-8-1995, which were with regard to seniority of the applicant/respondent No. 4, have not been challenged before us in this O.A. This O.A was filed on 21-8-1995. The order could be challenged in the circumstances. The contentions of the applicant that respondents NO.4 was junior, cannot be accepted. The order has become final.

Shri R.Verma submitted that the copy of the order dated 21-8-1995 was not served on him. Even if the aforesaid submission is accepted, no change occurs, as the applicant had knowledge of the order dated 7-4-1995 by which respondent No. 4 was declared senior to applicant and this could be challenge in this O.A. In the above facts and circumstances we are of the view that the inclusion of the name of respondent No. 4 in the panel did not suffer from any illegality.

2.e. The next submission of the applicant is that his name should be included in the list of Fitter Grade -III for which post he was admittedly promoted on 20-12-1990. This relief is also, now, not of any consequence as the applicant ~~had~~ ^{or} ~~because~~ admittedly promoted as Train Examiner in 1998 and is serving on the higher post. In the circumstances this O.A is disposed of finally with no order as to costs.


Member (A)


Vice Chairman

Madhu/