

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD.

Original Application No. 1066 of 1995.

Tuesday, this the 10th day of December, 2002.

Hon'ble Mr. Govindan S. Tampi, Member-A

Hon'ble Mr. A.K. Bhatnagar, Member-J.

On Prakash Shama aged about 48 years  
son of Shri B.D. Sharma, resident of R.B.II/  
847-D, Over Bridge Road West Colony, Jhansi  
working as Grade I, Carpenter, S.S. Inspection  
Office, Central Railway, Mechanical Workshop,  
Jhansi.

.....Applicant

(By Advocate : Sri V.K. Berman)

Versus.

1. Union of India  
through General Manager Central Railway,  
Bombay.
2. Chief Works Manager,  
Central Railway, Mechanical Workshop,  
Jhansi.
3. Mahesh Prasad Malviya  
working as Mistry, Inspection side, Mechanical  
Workshop, Central Railway, Jhansi.

.....Respondents.

(By Advocate : Sri A.V. Srivastava)

O R D E R

BY HON'BLE MR. A.K. BHATNAGAR, Member-A.

This O.A. has been filed under section 19 of the  
Administrative Tribunal Act, 1985, praying  
for following relief:

"to issue appropriate orders granting proper seniority  
in \* inspection side at the Mechanical Workshop, Central  
railway

Railway, Jhansi on the post of Grade 1 scale Rs.1320-2040/- and Mistri scale Rs.1400-2300/- from the date there is vacancy in the inspection side and to that extent atleast proforma seniority may be granted to the applicant alongwith all the consequent promotion in the inspection side that of the Mistri Rs.1400-2300/- granting the applicant seniority as against Mahesh Prasad Malviya and to publish the seniority list of the Grade 1 personnel in inspection side."

2. We have heard, Sri P Mathur counsel for the respondents as none appeared on behalf of the applicant, even on the 4th call in the revised list, as the case belongs to 1995 so it is decided on after perusal of the pleadings on records in this case.

3. The brief facts of the case are that the applicant appointed as Skilled Artisan in N.E. Railway, Bareilly and in 1974 he was transferred to Jhansi Mechanical Workshop on inspection side. The applicant filed original suit No. 337/80 Brijendra and others Vs. Union of India in Musiff Court, Jhansi, which was decided on 29.05.1982, the judgement is annexed as Exhibit-1. The appeal was filed by Union of India against this judgement which was later on transferred to Administrative Tribunals which came into force then this case was decided by the Central Administrative Tribunal by its judgement dated 5-1-1987, the copy of the judgement of the Tribunal is annexed as Annexure A-2. It is also claimed that the applicants were never considered for the scale of Rs.380-560/- as per order of the Tribunal. It is also claimed that in the seniority list, the applicant was placed at serial number 10 and Saiyad Musarrat Ali at (11), Mahesh Prasad Malviya at (14), Ganpat Ram at (15), Manohar at (16). It is also claimed that the applicant sent a letter pointing out that there was five posts vacant in the Grade of Rs.1320-2040/- grade-1 and the applicant was the senior most person in the category of Grade II but he has not been considered vide letter dated 31.5-1991 (Annexure A-5). It is also claimed that the respondents picked up his juniors Mahesh Prasad Malviya and others and promoted them to the scale of Rs.1320-2040/- in the Shop Floor, while the claim of the applicant was not heeded to. He has claimed his seniority over respondent No.4, Mahesh Prasad Malviya and others. Mahesh Prasad Malviya who was promoted from

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inspection side to Shop Floor in the scale of Rs.1320-2040/- and the applicant was brought back in the inspection side on the post of Mistry Rs.1400-2300/-. Thus, the respondent ignored his seniority over the respondent No.4. The applicant was promoted as Skilled Carpenter Grade I in the inspection side by order dated 12.01.1993. It is claimed that on 17.12.1994, a representation was submitted before respondent No. 2 for publishing the seniority list of the applicant for the inspection side of the P.C.O. It is also claimed that in the month of May, June 1995, the Railway Administration for the first time declared that the seniority cannot be given effect to the date the vacancies arose in inspection side. Aggrieved by this he filed this O.A. It is further claimed that his juniors have been promoted to the scale of Rs.1320-2040/- and claim of the applicant was ignored and no seniority list has been published inspite of repeated reminder by the applicant.


3. Sri A.V. Srivastava, learned counsel for the respondents has contested the case by filing the C.A. He pointed out that the applicant came on mutual exchange with one Shri Jagdish Prasad of the Workshop in the year 1974. He has drawn our attention to para 8 of the C.A., in which it is stated thatg being heavy vacancy in the Shop Floor, the applicant was asked to submit his willingness vide letter dated 3.9.90 which was received by him on 10.9.1990. As the applicant did not give his consent even for progress wing and Shop Floor, so his case could not be considered for promotion and juniors were promoted on Shop Floor. It is contended that no representation as alleged has been received by the respondents, which is Annexure A-4. It is further contended that the juniors to the applicant being promoted on Shop Floor as Grade 1 prior to that of applicant became Senior to him. Since the applicant

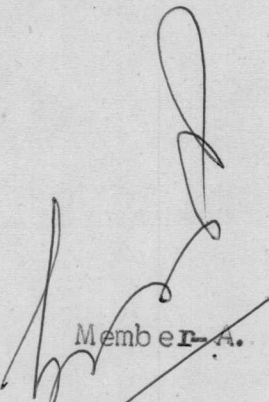
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did not give his willingness for Shop Floor, <sup>also</sup> he could not be promoted alongwith his juniors and it was on availability of vacancy in inspection wing which is Annexure CA-1 and CA-2 vide order dated 14.1.1993 he was accordingly promoted on 14.1.1993. However, no junior to the applicant promoted in inspection wing so the question of granting proforma seniority to him on any basis does not arise and the case of the applicant was rightly turned down.

4. In view of the aforesaid, we are of the view that the O.A. is devoid of merits and grounds taken by the applicant are not sustainable in law, therefore, the O.A. is dismissed being devoid of merits.

No order as to costs.

  
Member-J

  
Member-A.

Manish/-