

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1137 of 1995

Allahabad this the 11th day of December, 2002

Hon'ble Mr. Govindan S. Tampi, Member (A)
Hon'ble Mr. A.K. Bhatnagar, Member (J)

1. Gajendra Singh aged about 38 years S/o
Late Shri Ganpat Singh R/o Qtr.No.955G-RB-I,
T.R.S. Colony, Nagra, Jhansi.
2. Raziman Phillips, aged about 30 years, S/o
Shri B.P. Phillips R/o C/o Shri Gajendra
Singh, Qtr.No.955G-RB-I, T.R.S. Colony, Nagra,
Jhansi.
3. O.P. Gupta, aged about 35 years S/o Shri R.N.
Gupta, R/o C/o Shri Hari Ram Rai, Naye Gaon
Wale, Rajeev Nagar, Jhansi.
4. Pyare Lal aged about 29 years S/o Shri Bhikha
R/o C/o Shri Mahesh Prasad Sharma, House No.
180/1 Bahar Khande Rao Gate, Jhansi.
5. Maqbool Ahmad aged about 34 years, S/o
Shri Mahboob Khan, R/o 14, Kushtiana, Inside
Syed Gate, Jhansi.

Applicants

By Advocate Shri Rakesh Verma

Versus

1. Union of India through General Manager, Central
Railway, Bombay V.T.
2. The Divisional Rly. Manager, Central Railway,
Jhansi.
3. Shri Arun Kumar Tripathi, aged about 40 years,
S/o Shri R.C. Tripathi, posted as Electric Fitter
Grade III in T.R.S. Office under Sr. Divisional
Electrical Engineer, T.R.S. Jhansi (Notice may be

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served through Sr.Divisional Electrical Engineer(T.R.S.), Jhansi.

Respondents

By Advocate Shri Prashant Mathur

ORDER (Oral)

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

This application has been filed by the applicants for quashing the seniority list dated 29.12.92/06.01.93 and to direct the respondent no. 2 to recast the seniority list of Khalasis working in the pay scale of Rs.750-940 in T.R.S. cadre at Electric Loco Shed, Jhansi and Trip Shed after re-fixing the seniority, and also to direct the respondents no.2 to promote the applicants as Fitter Grade III in the pay scale of Rs.950-1500 with effect from the date when the respondent no.3, who is junior, has been promoted i.e. 27.7.95 with all consequential benefits.

2. The facts of the present case are that all initially the applicants were appointed as Khalasi. The applicant no.1 was appointed on 13.10.1982 on project and posted at Railway Electrification, Mathura in Jhansi Division and was given temporary status and made M.R.C.L. w.e.f. 1.1.1984 in the pay scale of Rs.750-940/-. The applicant no.2 was appointed in the year 1988 in Open Line and was posted at Jhansi and subsequently was given temporary status and made M.R.C.L. w.e.f. 13.10.1988 in the pay scale of Rs.750-940/-. The applicants no.3 and 4 were directly recruited on 05.11.1988 through Employment Exchange, Jhansi in regular capacity in the pay scale of Rs.750-940/- and was posted in T.R.S. cadre under the control of Sr.Divisional Electrical Engineer, Jhansi.

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Applicant no.5 was appointed directly w.e.f. 4.1.89 through Employment Exchange, Jhansi as Khallasi in the pay scale of Rs750-940. It is claimed by the applicants that the respondent no.3-Shri Arun Kumar Tripathi is junior to them but in the seniority list issued by the respondent no.2 on 29.12.92/06-01-93 they were shown much junior to him. They have further submitted that the seniority list has not been prepared in accordance with law as the same has been prepared taking into account the number of working days put in ~~as~~ casual labour capacity instead of taking date of engagement in regular capacity. It is contended that due to wrong fixation of seniority, the applicants have suffered ^a lot in the matter of promotion to the next higher post. For redressal of their grievances, the applicants have preferred a joint representation on 29.07.93 to the respondent no.2 but, the same has not been replied. Hence, aggrieved by the action of the respondents the applicants have approached this Tribunal.

3. The respondents have filed counter-reply, in which firstly it is stated that the O.A. is time barred as the applicants have challenged the seniority list dated 29.12.92/06.01.93 in the year 1995. On the ~~dispute~~ of seniority between applicants and respondent no.3, the respondents have clarified the position by stating that the seniority of the casual labourers of T.R.S. department is prepared on the basis of screening panel position prepared on the basis of total number of working days in the Organisation and, as such, the resumption of the individual has no relevancy of the seniority position in the panel. It is further stated that the panel is formed on the basis of merit position given by the Screening

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Committee. The respondents have further stated that the respondent no.3 has submitted his option in response to the notification of 18.10.1994/05.11.1994 and he was called for the Trade Test, and on passing the same, he was promoted to the post of Fitter grade III in the pay scale of Rs.950-1500. It is stated by the respondents ^{as} that/the applicants have not exercised their options, they have not been called for the trade test. The respondents have denied the receipt of any representation in their establishment. With the abovementioned facts in view, the respondents have prayed for dismissal of the O.A.

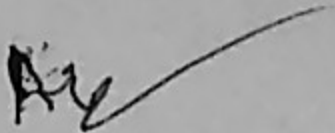
4. We have heard the learned counsel for the parties and perused the pleadings on record.

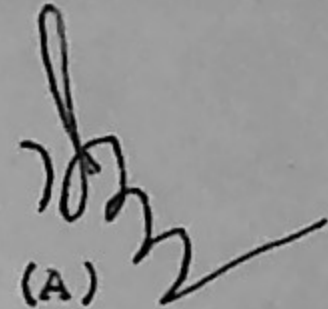
5. During the course of hearing, learned counsel for the respondents have furnished a copy of the Judgment passed by the Division Bench of this Tribunal on 02.09.2002 on the same issue, in O.A.No.1013/96 K.A. Khan & Others vs. Union of India and Others. On perusal of the same, we are in respectful agreement of the same. In this cited Judgment, the Division Bench of this Tribunal came to the conclusion that as the applicants have not exercised their options for the trade test, the respondents have not committed any mistake. In the present O.A. also, the applicants have not exercised their options for the trade test in response to the notification dated 18.10.94/05.11.94. The respondents have also cleared the position of seniority between applicants and respondent no.3. The applicants in this O.A. have also not challenged the seniority position of the persons ~~between~~ between them and respondent no.3. In our considered opinion,

[Signature]

the applicants are not entitled for any relief. Learned counsel for the respondents has also raised the point of limitation. From perusal of record, it appears that the applicants are challenging the seniority list dated 29.12.92/06.01.93 in the year 1995, therefore, the O.A. is also time barred.

6. In view of the aforesaid discussion, the O.A. is liable to be dismissed, which is accordingly dismissed with no order as to costs.


Member (J)


Member (A)