

40

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH**

Original Application No. 298 of 1999

....., this the 5<sup>th</sup> day of Sep<sup>r</sup> 2006

**C O R A M :**

**HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER  
HON'BLE MR. A.K. SINGH, ADMINISTRATIVE MEMBER**

Kamlesh Bharati,  
S/o. Shri Shiva Vachan Bharati,  
Driver Goods, Moradabad Division,  
Northern Railway,  
R/o. Quarter No. L-20/B, Loco Colony,  
Moradabad.

... Applicant.

(By Applicant Mr.T.S. Pandey)

v e r s u s

1. Union of India through  
The Secretary, Railways,  
Parliament Street, New Delhi.
2. Railway Board through its Chairman,  
Rail Bhawan, Baroda House, New Delhi.
3. Divisional Railway Manager,  
Moradabad Division, Northern Railway,  
Moradabad.
4. Divisional Engineer (Loco),  
Moradabad Division,  
Northern Railway, Moradabad

... Respondents.

(By Advocate Mr. V.K. Goel / Mr. G.P. Agarwal)

**ORDER**  
**HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER**

 This is a matter of 1999 vintage and hence, in the absence of the

41

2

counsel on the last date of hearing on 16<sup>th</sup> May, 2006, liberty was given to the parties to file written submissions so that this long pending case could be disposed of. However, none of the parties has chosen to file written submission. As such, as stated in the said order dated 16<sup>th</sup> May, 2006, this OA is ~~disposed of~~<sup>considered</sup> on the available pleadings.

2. The Brief facts of the case as per the OA are as follows. The applicant was initially appointed as a substitute cleaner in M.R. Quota on 29-02-1976 in the scale of pay of Rs 196 – 232. Certain other individuals were also likewise appointed but after the appointment of the applicant. In the screening test conducted, the applicant was empanelled at serial No. 11 of the panel dated 29-04-1979. However, in the seniority list dated 13-02-1980 of cleaners the applicant's name figured at the bottom but some of those who were inducted posterior to the induction of the applicant were shown as senior. The applicant was promoted as Driver Goods, in the scale of pay of Rs 1350 – 2200 on 06-01-1995 while other juniors were promoted to this post much earlier. In the wake of a few judgments by the Apex Court, the Railways issued a circular dated 15-05-1998 whereby the distinction between selection and non selection posts was removed. This was to be effective from 10.02.1995. At the time of consideration for promotion of Driver Goods as Driver Passengers, the respondents had published a seniority list on 19.08.1997 in which the name of the applicant was shown at serial 85 instead of the correct position at serial 47. The respondents had published a

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42

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promotion list of ~~passenger~~ <sup>driver</sup> Passengers on 19-03-1997 in which the name of the applicant did not figure in and being aggrieved by the wrong placement in the seniority list and non promotion, the applicant made representation dated 22-09-1997. Again, with a view to conducting some test, a seniority list was published on 9-2-1998 wherein the name of the applicant was not reflected. It is against this seniority list that the applicant has come up in this O.A.

3. Respondents have contested the O.A. According to them, none junior to the applicant was promoted in January 1995, the date when the applicant was promoted as Driver Goods. They have averred that w.e.f. 1984, the promotional pattern underwent a change in that Driver Goods would first be promoted as Sr. Driver Goods and only thereafter as Driver Passenger. Placement of the applicant in the seniority list of Driver Goods at serial No. 85, vide list dated 19-08-1997 was correct. In the earlier promotion dated 19-03-1997 the name of the applicant could not figure in as he did not come within the consideration zone. Revision of seniority list could not be possible due to pendency of certain court cases. As regards the reservation policy and application of the decision of the Apex Court in the case of R.K. Sabbarwal, A.K. Juneja and V.P.S. Chauhan, the respondents assert that none of the decision was ignored and reservation at the specified 22.5 % had been duly given to the respective entitled categories of persons.

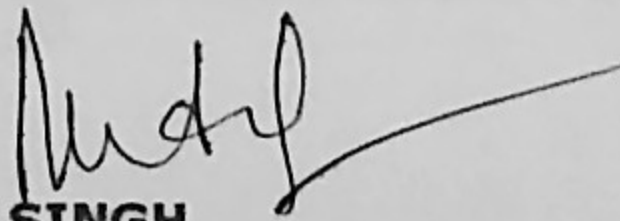
4. The applicant has not in the pleadings explained as to how the

decisions of R.K. Sabbarwal, Juneja and VPS Chouhan apply to the facts of the case. In the absence of proper explanation, no decision could be arrived at. Neither the applicant nor the respondents could be present on the last date of hearing. It is also not known whether the pending court cases having a bearing on this OA (vide 12 of the counter reply) have attained finality and what was the effect of the same with reference to the applicant.

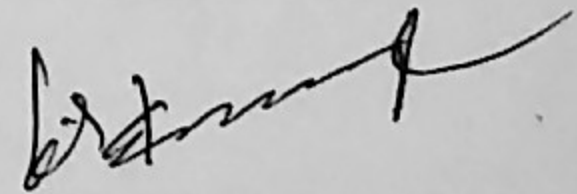
5. In view of the above, interest of justice would be met in giving one more opportunity to the parties to present the case either by way of hearing or by way of written arguments.

6. The OA be therefore, posted for hearing after six weeks, and before posting the case, the parties shall be informed of the date of hearing in writing and their acknowledgments obtained. Copy of this communication be also sent to the respective counsel.

7. Call after six weeks.



**A K SINGH**  
**ADMINISTRATIVE MEMBER**



**K B S RAJAN**  
**JUDICIAL MEMBER**