

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 40 OF 1999.

ALLAHABAD THIS THE 21st DAY OF December 2006.

Hon'ble Mr. Justice Khem Karan, Vice Chairman.
Hon'ble Mr. P.K. Chatterji, Member-A

1. Hiraman Ram s/o late Deo Saran Ram aged about 56 years, Resident of Quarter NO.419 ST. Railway Colony, Mughalsarai.
2. Roop Narain s/o late Deo Narain, aged about 59 years C/o Qr. NO. 419-ST, Railway Colony, Mughalsarai.

.....Applicants

(By Advocate: Sri S.S. Sharma)

VERSUS.

1. Union of India owning and representing "Eastern Railway" Notice to be served to the General Manager, Eastern Raiway, Headquarters Office, 17, Netaji Subhash Road, Calcutta.
2. The Divisional Railway Manager, Eastern Railway D.R.M. Office, Mughalsarai.
3. The Sr. Divisional Personnel Officer, Eastern Railway, D.R.M Office, Mughalsarai.
4. Shri A.K. Singh, Chief Store Issuer, under C.W.S. Eastern Railway, Dehri-on-Sone.
5. Shri Lal Mohar Ram, Chief Store Issuer, under Assistant Mechanical Engineer-II, C&W Eastern Railway, Mughalsarai.

.....Respondents

(By Advocate; Sri K.P. Singh)

meath

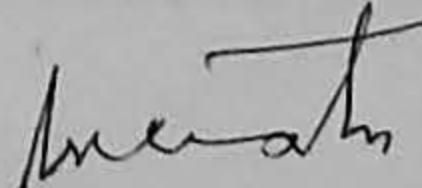
ORDER

By Mr. P.K. Chatterji, Member-A

The dispute in this O.A. is about promotion of the applicants in the next higher grade. The applicants were working in the Mechanical Branch of Loco Sheds as Tool Checkers. The applicants were due for promotion in the Mechanical Department consequent on restructuring which was under process. Their suitability for higher grade was also assessed and the result was about to be declared and at this juncture the process was stopped in order to implement the decision of Railway Board regarding another restructuring in which the grade of Tool Checkers were to be merged with their equivalent in the Carriage Department and thereafter promotion to be given on the basis of combined seniority. The applicants' grievance is that they were deprived of their due promotion within the Mechanical Branch by stopping it at the very moment when they were about to get it and as promotion was made on the basis of combined seniority alongwith staff of the Carriage Department. The higher post went to the latter.

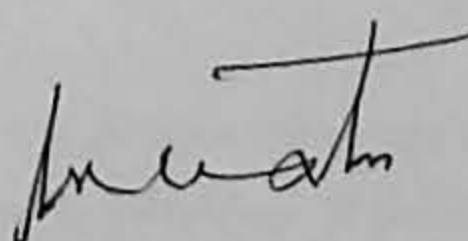
2. The applicants were also aggrieved that the applicants were also due to get the scale of Rs.110-180, the grade of Tool Checkers w.e.f. 1.1.73 for the reasons that they were already working as Tool Checkers from 1.1.1973 although in the grade of Rs.105-135 (the scale before its conversion in Rs.110-180). Although this benefit was given to the similar staff of Mughalsarai, this benefit was not given to them.

3. The issues in this O.A. are many ranging across almost entire service span of the applicants as it would be evident from the multiplicity of reliefs sought by the applicants in this O.A. It would involve examination of massive volume of records and data relating to the service of the applicants, and the instructions of the Railway Board from time to time as well as the plethora of office instructions. It is said that the same dispute was earlier brought to the Tribunal as O.A. NO.1057/88. The order was passed by the Tribunal on



25.9.1995. The O.A. involved examination of the same issue particularly the dispute regarding the seniority of the applicant vis-a- vis those in the Carriage Department who allegedly were shown favour by the respondents by giving promotion earlier. The Tribunal, after examining the matter directed that the respondents should decide the question of seniority by examining the provisional seniority list after giving the applicants an opportunity to place their views and then publishing the final seniority list through a speaking order. The relevant portion of the decision is reproduced below:-

"3. It has been pointed out by the learned counsel for the applicants that the full particulars about the date of appointment, of the order giving temporary status have not been given in the provisional list. The detailed information about the employees who were mentioned in the provisional seniority list, is not available. The applicants are therefore, prevented from making effective representations. Learned counsel for the applicants has pointed out about the objection with regard to clubbing of different categories of employees. We feel that these matters should be sorted out before finalizing the seniority list. We, therefore, direct the respondents that provisional seniority list should be prepared afresh by giving all details and relevant information therein and then to invite objections of the employees aggrieved thereabout. These objections should be decided by speaking order and then to finalize the seniority list. The promotion, if any, made on the basis of provisional list which is under challenge in this O.A shall be subject to the finalization of the list. Those employees who have retired and if it is found that they were not entitled for the promotion and higher salary, the excess amount paid to them shall not be recovered and taken back.

A handwritten signature in black ink, appearing to read "J. M. Mathur".

4. The exercise of giving finality to the seniority list of the employees should be done within a period of six months".

4. The Railway Board considered the matter afresh and decided the representation of the applicants' by a speaking order dated 28.7.97 in compliance with the abovenoted direction of the Tribunal. It is this order which has been impugned by the applicants in this O.A.

5. We have gone through the impugned order, it may be seen from the direction in the O.A. NO.1057/88 that the Tribunal considered the disputed matter. Such complex issues involving eligibility/dates of promotion involving staff of different units in pursuance of a plethora of instructions, policy decision many of which were sometime contradictory in nature and ^{which} therefore, required to be superceded by clarificatory interpretation is in the domain of the administration. It is not for the Tribunal to look into such complex ^{personnel} ~~personal~~ matter. However, in deciding the issue, the respondents should be objective, impartial and the case should be decided on merit. Accordingly, the directions in the O.A. NO. 1057/88 were issued to the respondents for a ^{just} ~~joint~~ disposal of the matter.

6. We, therefore, are of the view that the issues having been examined once need not be reopened. However, we have carefully gone through the impugned order, the relevant portion of the order is reproduced below:-

"The contention of the staff that loco group i.e. S/Shri Roop Narain Ram and Sri Hiraman Ram are senior to C&W men in Group 'D' hence that seniority to be maintained is not correct when the loss cadres merge, rule are clear that the two cadre employee get merged the same grade with the seniority assigned in that grade.

I find from record that C&W (Sri A.K. Singh) got into grade Rs.260-400/- from 12.2.1976 while Shri Roop Narain

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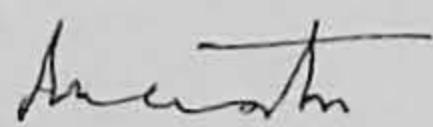
Ram on 1.6.1978 and Sri Hiraman Ram on 29.5.1975 on the day of merger (1.1.84) therefore, all three get 260-400/- with seniority as Sri A.K. Singh 12.2.1976 Sri Roop Narain Ram 1.6.1978 and Sri Hiraman Ram 29.5.1978. Hence the claim of Sri Roop Narain Ram and Sri Hiraman Ram that they are senior to Sri A.K. Singh is not correct. Their appeal, therefore, is rejected.

Wherein C&W staff as per record, I agree that the seniority is fixed based on regular promotion and not on ad-hoc/stopgap arrangement".

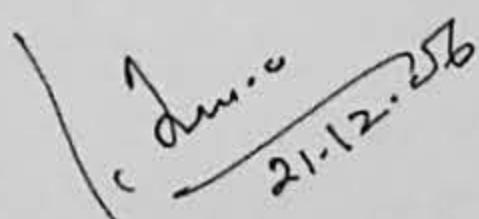
In view of above your representation on dated 31.1.1997 and 18.2.1997 against the seniority list published is rejected".

7. It would be seen from the above observations that the respondents in following the directions of the Tribunal examined the relative seniority of the applicants with of those of carriage department staff and explained why some of the latter got into the higher grade before the applicants. We think that the views are reasonable as they seem\$ to be based on record.

8. For these reasons, we do not think that there is merit in this O.A. which is dismissed with no costs.



Member-A



Vice-Chairman

Manish/-