

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 10TH DAY OF DECEMBER, 2001

Original Application No.1464 of 2001

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

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

1. Geetam singh,a/a 50 years
S/o Sri Raghuvansh Singh
R/o Krishna Behari Colony,
near Railway Station, Sikandara Rau,
Hathras.
2. Ram Vir Singh,a/a 46 years
S/o Sri Ganga Vasi,
R/o railway Qr.No.L/5A East
Cabin, Kasganj, Etah.

... Applicants

(By Adv: Shri T.S.Pandey)

Versus

1. Union of India through
General Manager, North Eastern
Railway, Gorakhpur.
2. Divisional Railway manager,
North Eastern Railway
Izat Nagar Division, Bareilly
3. Senior Divisional Personnel
Officer, North Eastern Railway
Izat Nagar, Bareilly.
4. Chief Crew Controller, Kasganj
N.E.Railway, Bareilly.
5. Chandra Dixit, head Clerk
Kasganj N.E.Railway
Izat Nagar Division,
Bareilly.

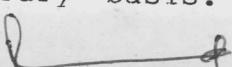
... Respondents

(By Adbv: shri Dhananjai Awasthi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has challenged the seniority list dated 1.4.1999(Annexure 1) and the order of promotion dated 7.12.1999(Annexure 2) by which respondent no.5 has been promoted and appointed as Head clerk on temporary basis. The applicant filed a



Court:

- i) Rudra Kumar Sain & ors Vs. Union of India & Ors
2000, Vol-3 Administrative Total Judgements (ATJ)
pg-392
- ii) Baburao Vishram pathare Vs. The Union of
India & Ors, 2000(3) ATJ-485
- iii) Badri Nath Vs. Govt. of Tamil Nadu & Ors
2001(1) ATJ Pg-174

and has submitted that adhoc period served by the applicant should be counted for the purpose of seniority. Out of the aforesaid three cases judgement, in 'Rudra Kumar Sen's case, is by a Constitution Bench of Hon'ble Supreme Court. In paragraph 19, their Lordships have concluded as under:

"The meaning to be assigned to these terms while interpreting provisions of a Service Rule will depend on the provisions of that Rule and the context in and the purpose of which the expressions are used. The meaning of these terms in the context of computation of inter-se seniority of officers holding cadre post will depend on the facts and circumstances in which the appointment came to be made.

For that purpose it will be necessary to look into the purpose for which the post was created and the nature of the appointment of the officer as stated in the appointment order."

Their Lordships have held that whether the period should be counted for purpose of seniority depends on facts and circumstances in which appointment came to be made. In the present case, there is no dispute that respondent no.5 was from the very beginning serving as a regular Fireman Grade-II. On his request he was allowed to change the cadre and joined on regular basis as a Junior Clerk, whereas the applicants started the service as adhoc in 1982. According to learned counsel for the applicant, 

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9/10 years could be a fairly long period to continue as adhoc and for seniority in service, should have been counted. Even if his submission is accepted then also the applicants could be counted for the purpose of seniority in 1989 or after that. The adhoc period of service of the person concerned shall be counted for purpose of seniority after he has been continued for the fairly long period and not immediately. In the facts and circumstances of the present case in our opinion, the cases relied on by the applicant do not help them and the order passed appears to be justified and calls for no interference by this Tribunal.

The OA is accordingly dismissed with no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 10.12.2001

Uv/