

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 26th day of July, 2006.

Original Application No. 730 of 2000.

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

Munne Khan, S/o Shri Kalle Khan,
Working as Crane Driver, Loco Shed under Carriage
and Wagon Superintendent, Jhansi. R/o 1071, Shivaji
Nagar, Kumarpura, Near Masjid,
GWALIOR.

. Applicant

By Adv: Sri R. Verma.

V E R S U S

1. Union of India through the General Manager,
Central Railway, Chhatrapati Shivaji Terminus,
MUMBAI.
2. The Divisional Railway Manager (P),
Central Railway,
JHANSI.
3. Carriage and Wagon Superintendent,
Central Railway,
JHANSI.
4. Sri Ram Autar, Presently posted at Loco Shed,
Beena, under the Control of Carriage and Wagon
Superintendent, Jhansi as Crane Driver Grade I.

. Respondents

By Adv: Sri S. Singh.

O R D E R

By Hon'ble Mr. P.K. Chatterji, Member-A

Munna
This OA No. 730 of 2000 has been filed by Munna
Khan, seeking direction from the Tribunal for
promotion to the post of Driver Crane Grade III in
the pay scale of Rs. 3050-4590 (revised) from

26.06.1987, the date from which respondent No. 4 Sri Ram Autar his junior was promoted as Crane Fireman.

2. The facts of the case in brief are as follows:-

a. The applicant submitted that he was promoted as Crane Driver from 08.07.1992. He passed the trade test for the above post on 22.10.1986. On the other hand respondent No. 4, who is stated by the applicant to be his junior, was wrongly promoted from earlier date i.e. 26.06.1987. For this reason the respondent No. 4 has become his senior in the Crane Driver Grade III.

b. The applicant has further submitted that he was appointed as ladder man from 26.04.1980 and was posted at Agra Steam Loco Shed in Central Railway, Jhansi Division. After this, the applicant was further promoted to the post of Crane Fireman on regular and substantive capacity from 05.07.1983. On the other hand, respondent No. 4 was promoted to the post of Crane Fireman only w.e.f. 05.08.1986 in regular and substantive capacity. The applicant in support of his statement has submitted copy of the seniority list dated 06.06.1990, stated to be issued by respondent No. 2 which is annexed as Annexure 2 to the OA. The applicant has also submitted that after respondent No. 4 was promoted to the next higher post of Crane Driver Grade III from 26.06.1987 vide letter No. P/410/6/2/R&M/60 dated

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03.06.1987 issued by respondent No. 2, he first came to know about it in the year 1990 and, thereafter, he made several representations against order on 08.05.1990, 03.07.1991 and 20.02.1992. In these representations he claimed promotion with reference to his junior.

c. However, no action was taken by the respondents to rectify the mistake committed by them. The applicant further submitted that he kept on sending representations for redressal of his grievances dated 13.04.1994 and then again on 03.09.1996 to respondent No. 2. But instead of taking any decision on his representation the respondent Nos. 2 and 3 allowed respondent No. 4 to be promoted to the next higher grade of Crane Driver Grade II with retrospective effect from 05.05.1992. Thereafter, respondent No. 4 got further promotion to the post of Crane Driver Grade I with revised pay scale of Rs. 4500-9000.

3. The relief which has been sought by the applicant are as below:-

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- a. To issue a writ, order or direction in the nature of Mandamus directing the respondent No. 2 to place the applicant at par with the respondent No. 4 as Crane Driver Grade III in the pay scale of Rs. 950-1500 (old) (revise Rs. 3050-4590), who is admittedly junior than the applicant in the immediate

next lower grade of Crane Fireman by fixing pay of the applicant with effect from 26.06.1987 treating to have been promoted with effect from 26.06.1987 treating to have been promoted with effect from the said date on the post of Crane Driver Grade III alongwith the respondent No. 4 and thereafter to place the applicant at par over and above than the respondent No. 4 in the seniority of Crane Driver Grade III.

- b. To issue a writ, order or direction in the nature of Mandamus directing the respondent No. 2 to promote the applicant to the post of Crane Driver Grade II as a result of grant of relief NO. 1 in the pay scale of Rs. 1200-1800 (Old) (revised 4000-6000) with effect from 05.05.1992 when the respondent No. 4 has been promoted vide letter No. P/PF/RAD/Loco Shed dated 10.01.1996 passed by the respondent No. 2 and also to the post of Crane Driver Grade I in the pay scale of Rs. 1320-2040 (Old) (revised 4500-9000) with effect from the date when the respondent No. 4 has been promoted some times in the year 1999.

- c. To issue any other suitable writ, order or direction in the facts and circumstances of the case which this Tribunal may deem fit and proper.

- d. To award cost of the petition.

4. In the Counter Affidavit submitted by the respondents the averment made by the applicant as to his seniority has been denied. It has been stated categorically by the respondent Nos. 2 and 3 that

respondent No. 4 was senior to the applicant from the very beginning of his appointment. According to the respondents the applicant was engaged in service from 01.05.1980 on the post of substitute ladder man. He was trade tested for the post of Steam Crane Fireman on 05.07.1973. Thereafter, he was again trade tested for the post of Crane Driver Grade III on 22.10.1986 and was actually promoted to the post of Crane Driver Grade I on 08.07.1992, since there was no vacancy prior to 08.07.1992. On the other hand respondent No. 4 Sri Ram Autar, was actually appointed in the Railways on 07.07.1983 as substitute Cole man. He was regularized as Crane Fireman on 25.10.1978 and, thereafter, he was promoted as Crane Fireman on 01.08.1982. Sri Ram Autar was trade tested for the post of Crane Driver Grade III on 01.09.1983 which is about three years before the applicant was trade tested for the same grade. The respondent Nos. 2 and 3 have further clarified in the counter affidavit that the seniority dated 06.06.1990, which the applicant alongwith his OA in support of his claim, the name of Sri Ram Autar, was shown erroneously because on the date he already stood promoted as Crane Driver Grade III (w.e.f. 03.06.1987). Thus the applicant was only trying to take advantage of an erroneous entry in the seniority list on 06.06.1990.

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5. We have carefully considered the respective submissions made by the parties counsel in the light of pleadings and the papers annexed to them. The claim of the applicant for the promotion to the post of Crane Driver Grade III (in the pay scale of Rs. 950-1500) (3050-4590) w.e.f. 26.06.1987, the date from which the respondent No. 4 was promoted to that grade and the claim for consequential promotions to Grade II or Grade I are based on the ground that he is senior to respondent No. 4 in the grade of Crane Driver. The contesting respondents have stated that the claim of the applicant that he is senior to respondent No. 4 is totally ill-founded. According to them while respondent No. 4 was regularized as Crane Driver on 25.10.1978, the applicant was promoted to that post much after on 05.07.1983. They go on to say that while respondent No. 4 was trade tested for Crane Driver Grade III on 01.09.1983, the applicant was trade tested on 22.10.1986. It has also been stated that in reply that that though respondent No. 4 was promoted to Grade III on 26.06.1987, the applicant did not agitate the matter till May 1990 as he himself stated in para 4.IX of the OA. The respondents have said that seniority list annexed as annexure A2 to the OA in which respondent No. 4 has been shown at Sl. No. 8 and the applicant at Sl. No. 4, is erroneous as respondent No. 4 had already been promoted to the next grade and there was no point in

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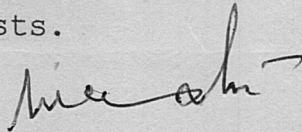
showing him in the seniority list of Crane Driver. They have also annexed (CA 3) the seniority list where in the name of the applicant is not there while the name of the respondent No. 4 is there.

6. Sri R. Verma, learned counsel for the applicant has not been able to successfully disprove the facts stated in para 10 of the reply. In other words the fact that respondent No. 4 was regularly appointed as Crane Driver on 25.10.1978 and the applicant came to that post on 05.07.1983 could not be disproved or assailed. We failed to understand as to how the applicant claims himself senior to respondent No. 4 in the feeder cadre of Crane Fireman. The respondent No. 4 occupied that post regularly on 25.10.1978, about five years before the applicant could occupy that post on 05.07.1983. There appears to be substance in the contention of the respondents that the name of the respondent No. 4 was wrongly shown in the seniority list (Ann A2) of 1990. Had the applicant been really senior to the respondent No. 4 on the post of Crane Fireman, he would have not kept mum ^{from} ~~from~~ 26.06.1987 to May 1990 and would have certainly agitated the matter, even the trade test for the post of Crane Fireman Grade III was passed by the respondent No. 4 on 01.09.1983, much earlier to the passing of that test by the applicant on 22.10.1986. We find no substance in the claim of the applicant that his

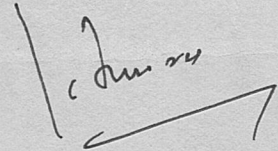
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junior was promoted earlier to him. There is no basis for him of claiming promotion to the post of Crane Driver Grade III from 26.06.1987, the date from which respondent No. 4 was promoted. The OA deserves to be dismissed.

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



Member (A)



Vice-Chairman

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