

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 8TH DAY OF OCTOBER, 2003

Original Application No.1112 of 2003

CORAM:

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

HON.MR.D.R.TIWARI, MEMBER(A)

1. Bhanu pratap Pandey, son of Sri Adaya Prasad Pandey, R/O 5/1 D Panchayati Jain Colony, Jain mandir ke Bagal, Nagar, Jhansi.
2. Dharmendra Upadhyay, S/o Sri Jagdish Prasad Upadhyay R/o Sri Kishan Asharam ke pas, Chinar Road, Dabara (M.P)
3. Naseem, S/o Sri Munna, R/c Masjid ke pas Lal kurti Bazar, Jhansi
4. Ram Gopal, S/o Sri Munna Lal R/o Azad Nagar, Hansari, Jhansi
5. Saleem, S/o Sri Ramzan Khan, R/o Mchalla Beda Kuan, H.No.15, Puliya No.9, Jhansi.
6. Chhote Kjan, S/o Sri Anwar Khan R/o Mohalla Allahabadi H.No.10, Puliya No.9, Jhansi
7. Sanjeev Shukla, Son of Shri Madhuri Sharan Shukla R/o 768/3 H, Kiledar Ka Hata, Masiha Ganj, Sipri Bazar, Jhansi.
8. Akhilesh narain Trivedi S/o Sri Tirath Prasad Trivedi R/o 97/6 Prem Ganj, Sipri Bazar, Jhansi.
9. Pooran Lal Yadav, son of Sri Mantole, Resident of Azadpura Gaddhiya Goan, Jhansi
10. Kishana Chand Sharma S/o Late G.P.Sharma, R/o Gurudwara ke pass Nagar, Jhansi

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11. Pooran Singh, S/o Late
Shri Dhan Singh, R/o Shastri
Nagar, Isai Tola, Jhansi.
12. Rajendra Singh Yadav, son of
Sri Badam Singh, R/o R B-1, 716 A
Rani Laxmi Nagar, Seepri Bazar,
Jhansi.
13. Harmeet Singh Nada, Son of
Mehtab Sindh Nanda, Resident of
36/23 Prem ganj, Seepri
Bazar, Jhansi.
14. Javed Akhtar, son of N.S.Siddiqui
R/o MA/40-A, West Railway Colony
Loco Gwalior.
15. Vivek Mishra, son of Late
M.C.Sharma, R/o Adarsh Nagar,
Seepri Bazar, Jhansi.
16. Uma Shanker Bhardwaj, son of
Sri M.C.Sharma, R/o B-65, Balaji Puram,
Shahganj, Agra-10.
17. Kapil Saxena, son of
Sri P.M.Saxena, Resident of
29/A L.I.G, New Shahganj, Agra.
18. Raj Kumar, son of Sri Kajor Sen
R/o 62/3A/12, New Janta Colony,
Agra.
19. Anil Sharma, son of Sri O.P.Sharma
2/171, Namner, Agra.
20. Pawan Kumar Mittal, son of
Sri C.B.Mittal, Resident of
C-34 Motikunj Extension,
Mathura.
21. Gopal Prasad Son of K.S.Sharma
C/o CCC NCR, Mathura

.. Applicants

(By Adv: Shri Ashish Srivastava)

Versus

1. Union of India,
through General Manager,
North Central Railway, Allahabad.
2. Divisional Railway Manager
North Central Railway Division, Jhansi,
Jhansi.
3. Divisional Railway Manager, (P)
North Central Railway,
Jhansi Division, Jhansi

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- Divisional Railway Manager(P)
North Central Railway,
Jhansi Division, Jhansi.
- 5. Anuj Kant Mishra, presently
posted as Asstt. Driver
Jhansi Division, Gwalior
Head quarter, North Central Railway.

.. Respondents

(By Advs:S/Shri D.C.Saxena/Amit Sthalekar)

O R D E R(Oral)

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

By this OA u/s 19 of A.T.Act 1985 applicants have challenged the seniority list dated 11.8.03 (Annexure 1) by which they claimed that their seniority has been lowered down illegally without hearing them. They have also prayed to quash the letter dated 21.8.03(Annexure 2) by which direction has been issued for selection of Goods Drivers which was to commence w.e.f. 20.9.03. This Tribunal after hearing the parties passed interim order on 16.9.03 directing that the selection shall remain stayed till 8.10.03 and the interim matters shall be heard again. Thus, this matter has come up before us. After hearing counsel for parties at length, in our opinion, this OA can be disposed of finally at this stage on a short question of law but before that we would like to deal with the preliminary objection raised by Shri D.C.Saxena counsel for respondents. Shri Saxena has questioned the maintainability of this OA on two grounds.

The first ground is that the verification of the OA has been done only by one applicant Bhanu Pratap Pandey, whereas there are 21 applicants. It is submitted that Bhanu Pratap Pandey before verifying the OA should have

expressed about his authority to verify the OA on behalf of others. We do not find any merit in this objection. The application has been filed jointly by the applicants after obtaining permission from the Tribunal, ^{by} ~~after~~ making separate application No.3748/03. Once permission under rule 4(5) is granted, all the applicants get a common interest in the application and verification of the facts can be done by one applicant. Thus, the objection raised is more of technical nature than substantial and is overruled.

The second objection is that there are 664 persons in the impugned seniority list and the applicants have not impleaded the persons who are likely to be affected. As we propose to decide this OA on short question of law without expressing any opinion on merit, in our opinion, the non impleadment of all the persons mentioned in the list will not affect the matter and this objection is also over-ruled.

It is not disputed before us that the seniority list of Asstt. Drivers was revised by respondents on 11.8.03. It is also not disputed that applicants were not given opportunity before carrying out the changes in the seniority list placing their position down in the seniority list. In our opinion, by revising the seniority list on 11.8.03, rights of the applicants have been adversely affected. The legal position is well settled that before passing any order which carries serious civil consequences, opportunity of hearing should be given to the persons concerned. In view of this fact, the seniority list was changed in violation of the principles of natural justice and in our opinion for this reason the respondents

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are under obligation to decide the representations of the applicants against the seniority list dated 11.8.03. The representations filed by the applicants, ⁱⁿ ~~which may~~ be decided within two weeks from the date a copy of this order is filed. The applicants shall be permitted to raise additional points in support of their representations. After the representations of the applicants are disposed of, the respondents may proceed with the selection of the Goods Drivers. For the purpose of deciding representations ^{it is provided that} ~~may decide himself or~~ General manager ~~may depute a~~ Competent Authority. There will be no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 08th of October, 2003

Uv/