

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

PRESENT:

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MR. K.S. MENON, MEMBER-A

Allahabad this the 17th day of October, 2008

Original Application No. 198 of 2007

1. Om Prakash Pathak, S/o Sri Kapil Pathak, at present as Section Engineer-TRS, NCR, Headquarter, Allahabad.
2. Anil Kumar, Aged about 40 years, S/o Sri Suresh Kumar, at present posted as JE-I, P.Way, N.C.R., Headquarter, Allahabad.
3. Devendra Kumar Tiwari, Aged about 45 years, S/o Sri Shiv Charan Lal Tiwari, at present posted as JE-2 TRD, N.C.R., Headquarter, Allahabad.
4. Krishna Verma, Aged about 41 years, S/o Sri Daya Ram Verma, at present posted as JE-2, TRD, N.C.R., Headquarter, Allahabad.
5. Nand Kishore, Aged about 40 years, S/o late Mahavir Prasad, at present posted as JE-2, TRD, N.C.R., Headquarter, Allahabad.
6. Sanjai Kumar Saxena, Aged about 44 years, S/o late N.N. Saxena, at present posted as Section Engineer, TRD, NCR, Headquarter, Allahabad.

...Applicants.

By Advocate : Sri K.K. Mishra.

Versus

1. Union of India through General Manager, N.C.R., Allahabad.
2. Chief Personnel Officer, N.C.R., Headquarter office, Allahabad.
3. Chief Electrical Engineer, North Central Railway, Headquarter office, Allahabad.
4. Joint Director Estt. (N), Railway Board, New Delhi.

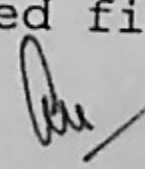
...Respondents.

By Advocate : Sri K.P. Singh assisted by Sri K.S. Saxena

O R D E R

Delivered: By Justice A.K. Yog, Member-J

With the consent of the parties, this O.A. is being heard and decided finally.



(21)

2. At the outset, Sri K.P. Singh, advocate stated (See our order on the ordersheet dated 12.9.2008) that this O.A. can be decided on the same terms and conditions as passed in O.A. no. 654 of 2006 in re. Sanjay Kumar Singh and four others Vs. U.O.I. & Ors, O.A. No. 618 of 2006 in re. S.B. Singh and Others Vs. U.O.I. & Others and O.A. No. 793 of 2006 in re. Ravindra Kumar Das Vs. U.O.I. and Others decided by this Tribunal vide final order dated 9.7.2008. The relevant extract of the order passed in O.A. no. 654 of 2006 reads:

"Learned counsel for the applicant has submitted that the applicants are apprehensive that having worked in the headquarter office of the N.C. Railway, having come from the division of another Railway, now they are required to be sent back to the divisions. They are further afraid that their seniority and full length of service which has been given in headquarter office and the designation of the promoted post may be lost if they are sent out from the headquarter office to the division of N.C. Railway, Allahabad.

Learned counsel for the respondents has stated that keeping in view the various rules and circulars applicants have produced before Court as well as the documents available with the Counter affidavit and the pleadings, the applicants need not be apprehensive.

- (i) The promotions given, the designation of the promoted post shall continue with the employee as personal to him as well as the pay scale of the promoted post.
 - (ii) Their total length of service shall be counted for seniority and there shall be no change only because they have worked in the headquarter office.
 - (iii) Their seniority shall be counted taking into account the full length of service, both in the concerned division as well in the headquarter office, in future.
3. Keeping in view the above assurance which has been taken on record, the application is disposed of without any further directions.
4. The O.A. is disposed of as above. No costs."

3. Sri K.K. Mishra, Advocate, appearing for the applicants, however, vehemently denied the aforementioned statement of the learned counsel for the respondents. Sri Mishra further points out that the aforesaid order dated 9.7.2008 passed by this Tribunal in the case of S.K. Singh and Others

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(supra) has been challenged by the applicant (S.K. Singh and Others) by filing Writ Petition bearing no. 37408 of 2008 in re. S.K. Singh and Others Vs. Union of India & Others. There is no dispute amongst the learned counsel that the aforesaid Writ petition has not been admitted and also there is no interim order staying the proceedings of this Tribunal.

4. Having perused the pleadings on record, we find that we are not required to decide whether the issue/controversy raised in the present O.A. (198/2007) is the same as decided vide final order dated 9.7.2008 in O.A. no. 654 of 2006 - S.K. Singh and Others (supra). This controversy can also be examined by the respondent-authorities while considering the grievance of the applicants in pursuance to the order proposed hereinafter.

5. We need not burden our order by dilating upon the factual aspects of the case. The applicants concede that they have filed representation dated 10.5.2006 before the respondent-authorities (Annexure-10 to the O.A.) and it is pending. Said representation is admittedly pending before the respondent-authorities. It is, therefore, expedient that the respondent-authorities be required to consider the grievance of the applicants raised through the said representation. The respondent-authorities are also in a better position to decide factual aspects inasmuch as they are in possession of original records.

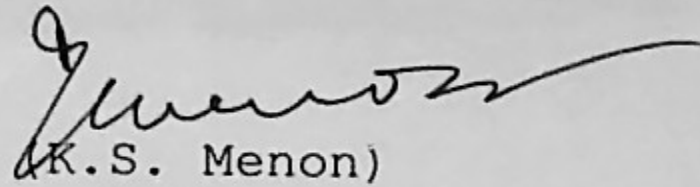
6. In view of the above, we direct the applicants to file a certified copy of this order alongwith a copy of this O.A. (with all Annexures) and an additional representation (if so advised) within three weeks from today before General Manager, North Central Railway, Allahabad and the said authority (provided certified copy of the order is filed,

[Signature]

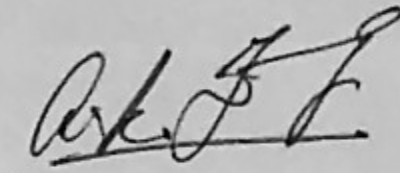
(23)

within the time stipulated in this order) shall decide the same by a reasoned/speaking order, within three months from the date of receipt of a certified copy of this order. The decision taken shall be communicated to the applicants forthwith. It is made clear that status quo as on date (with respect to the applicants only) shall be maintained till the final decision on the representation of the applicants.

7. The O.A. stands disposed of without entering into the merits of the O.A. at this stage subject to above directions. No costs.



(K.S. Menon)
MEMBER-A



(A.K. Yog)
MEMBER-J

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