

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH
AT AHMEDABAD.

O.A.No. 78 of 1988.

And

O.A.No.93 of 1988.

Date of decision: 15--12--1989.

O.A.No.78/88.

Indrasingh B and others. .. Applicants.

Vs.

Union of India and others. .. Respondents.

O.A.No.93/88

Bhevar Singh & others. .. Applicants.

Vs.

UNION OF INDIA AND OTHERS. .. Respondents.

Shri S.H.Asrani, Counsel for the applicant.

Shri B.R.Kyada, Counsel for the respondents.

CORAM:

Hon'ble Shri J.Narasimhamurty, Member(Judicial)

Hon'ble Sri M.M.Singh, Member (Administrative)

Judgment of the Bench delivered by
Hon'ble Sri J.Narasimhamurty,
Member (Judicial).

--:-

O.A.No.93/88

The petitioners have filed this application
seeking a direction to the respondents for quashing
the seniority list dated 13th January, 1988.

The averments in the application briefly stated are as follows:

The petitioners were originally appointed as Firemen-C under the respondents. The petitioners state that previously the avenues of promotion were (1) Fireman -II (known as Fireman-C)⁽²⁾, Fireman-B and (3) Fireman-A. They state that the seniority list of 100 more employees was prepared in an arbitrary and illegal manner. They are challenging that list prepared by the respondents as it is violative of principles of natural justice.

The petitioners state that they were originally appointed as Firemen-C in the Establishment of the Railways and they are discharging their duties satisfactorily. As per the old rules, the promotions were given as per the seniority only to the promotional posts. The petitioners state that in the year, 1981 the Railway Board in terms of its order dated 17--7--1981 had decided in consultation with the National Federation of the Indian Railways and All India Railway Federation to upgrade the Fireman-B post to that of Fireman-A. Accordingly, all the Fireman-B except those working on shunting engine were to be upgraded with effect from July, 1981 from the scale of Rs.260--350 to Rs.290--350. In the year, 1986, the respondents have merged the Grade of Fireman B

in the scale of Rs.260--350 and Fireman-A in the grade of Rs.290--350 into one scale of Fireman-A in the scale of Rs.950--1500. After this merger, the post of Fireman-B has been scrapped and as per the prevailing position, the posts of Fireman-A and Fireman-C exist.

All the petitioners were serving as FiremanA from the year 1--6--1981.~~xx xx~~ The petitioners submit that by virtue of 100% upgradation of the posts of Fireman-B to that of FiremanA, the petitioners who are officiating on the post of Fireman-A since 1-6-1981 were deemed to have been upgraded to the post of Fireman-A in the scale of Rs.290-350. The petitioners were paid their difference of arrears also and their seniority is also maintained in the grade of Fireman-A. The Railway Administration realising that the duties of FiremanA and that of FiremanB in the scale of Rs.260-350 and that of Fireman-A in the scale of Rs.290-350 are more or less similar, a common grade was prescribed by the respondents known as Fireman-A (Rs.950--1500). The petitioners state that a common seniority of Fireman-A is to be maintained from the date of officiating to the post of Fireman-A. The petitioners state that since they are working as Fireman-A since 1979 and 1980, their seniority has to be fixed accordingly on the basis of the length of their service in the grade of Fireman-A. But surprisingly, the seniority list was prepared by the respondents on

20--8--1987 whereby many juniors to the petitioners who were serving in the lower grade of Helpers and Cleaners etc., were placed at higher position than the petitioners by completely ignoring the fact that the petitioners are serving as Fireman-A for more than 8 to 10 years whereas the persons junior to the petitioners who had not even completed officiation to the post of Fireman-A for more than one year, were shown as senior to the petitioners. The respondents committed a mistake in the preparation of the seniority list. The petitioners state that since the aforesaid mistake in the preparation of the seniority list was quite obvious and apparent, the Divisional Railway Manager (E) Rajkot, respondent No.2 was constrained to send the telegraphic instructions dated 26th August, 1987 to the concerned authorities not to operate the same till a proper and revised seniority list is published. The respondents, however, published another seniority list dated 13th Jan., 1988 without rectifying the mistake in the previous seniority list prepared on 20th August, 1987 and without taking into account the objections raised by the employees through the Union. They state that the fresh seniority list published on 13--1--1988 is full of mistakes and omissions including the omission of the names of petitioners 1 to 4 herein. The names of petitioners 1 to 4 have not been included in the fresh seniority list. Though the petitioners 1 to 4 were working as Fireman A

since 1979 and 1980 they have been shown much lower to the juniors of the petitioners who have been recently officiating from 1st April, 1986 onwards. They state that it would be clear from the fresh seniority list that the persons shown from serial Nos., 423 to serial No. 448 are officiating to the post of FiremanA only with effect from 1st April, 1986 and so on whereas the petitioners who are working as FiremanA since the year 1981 are shown from Serial No. 466 to 470 and from serial No. 482 to 489 and serial Nos. 493, 495, 498, 501, 510 and 519. Their juniors were placed ^{above} ~~about~~ the petitioners erroneously. The petitioners were put in the seniority list much below their juniors. Therefore, they pray that the seniority list dated 13--1--1988 to be quashed and to draw a fresh seniority list in its place.

O.A.93/1988.

prayer of the
The/petitioners in O.A.93/88 is the same as in O.A.78/88 and the material facts and averments are one and the same. Hence we are deciding ~~both~~ the applications by way of a common judgment.

No counters have been filed in both the cases.

The petitioners in both the applications contend that behind their back the seniority list was prepared and in the seniority list, their juniors were shown as their seniors and so that seniority list should be quashed and a fresh seniority list has to be prepared in its place.

The respondents filed a copy of Circular No. EM.1130/5/2/27 Vol.IV dated 13--1--1988. In that circular they have mentioned that seniority list of Fireman scale Rs.950--1500(RP) was notified under ~~xxx~~ office letter No. EM/1030/5/27/Vol.IV dated 30-6-1981 and that many changes have thereafter taken place due to retirement/resignation/fresh promotion/confirmation in the higher grade etc. As such fresh seniority list of Fireman with position as on 30-11-1987 is sent for circulation among the staff. In that circular it is also mentioned that those employees whose names are newly included in the list i.e., fresh promotees may be apprised of their position in the seniority list, their signatures obtained in token of their having noted their position in the seniority list. The employees whose names newly included in the seniority list were also asked to submit their representation, if any, within a month from the date of issue of the circular. Representations received from such staff should be submitted to the Divisional Office in one lot and not in piece-meal under any circumstances by ~~22--2xxx~~ 13--2--1988.

In spite of the above clear circular, the petitioners did not send their position in the seniority list. Even after filing of this application also, the petitioners ~~g~~ were given sufficient time and opportunity to submit their representations showing their service

particulars and to indicate their position i.e., before whose names their names have to be incorporated in the seniority list, they did not evince any interest and have not furnished to the Court the correct position regarding their seniority. They have ~~also~~ not furnished any of their service particulars such as date of joining service, date of promotion, scale of pay, when they were merged into Grade-A and who are the others that are placed before them and ~~xxx~~ who are their actual juniors. Their prayer in the application is very vague.

In the absence of the relevant particulars it is not possible to the respondents to prepare a seniority list to the satisfaction of the petitioners.

The learned counsel for the respondents very fairly conceded that the department^{is} even now prepared to give^{an} opportunity to the petitioners~~xxx~~ to represent their grievances with complete and full particulars regarding their seniority. Therefore, it is open to the petitioners to give their service particulars and request the Department to include their names at the appropriate place in accordance with the order of seniority and according to rules in force. ~~Rux~~

In view of the submission of the learned counsel for the respondent, we advise the petitioners to approach the Department by way of representation with full service particulars and we do hope that the Department would consider the just and proper representation of the petitioner in a proper and correct perspective in accordance with law.

With these observations, we dispose of the Applications. There will be no order as to costs.



(J.NARASIMHAMURTY)
Member(Judicial)
15/12-89

M. M. Singh
(M.M.SINGH)
Member(Administrative)
15-12-89
18/12/89

SSS.

MA/673/88

in

OA/78/88

Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman
Hon'ble Mr. P.M. Joshi : Judicial Member

26/9/1988

Heard Mr. D.M.Thakkar learned advocate for the
petitioners. Mr.B.R.Kyada learned advocate for
the respondent not present. Registry to fix an
early date for hearing OA/78/88. With this order,
MA/673/88 stands disposed of.

P.H. Trivedi
(P.H.Trivedi)
Vice Chairman

P.M. Joshi
(P.M.Joshi)
Judicial Member

a.a.bhatt