

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A. 719/96

Present : Hon'ble Mr. D.Purkayastha, Judicial Member

Hon'ble Mr. G.S.Maingi, Administrative Member

Durga Prasad Ram, son of Late Santial Ram, working as Goods Guard under Divl. Railway Manager, Eastern Railway, Malda at Sahibganj, residing at Railway Cr. No.105/D, North Colony, Sabibganj, Bihar.

... Applicant

-Versus-

1. Union of India, service through the General Manager, Eastern Railway, Fairlie Place, Calcutta-1.
2. General Manager, Eastern Railway, Fairlie Place, Calcutta -1.
3. Chief Personnel Officer, Eastern Rly., Fairlie Place, Calcutta -1.
4. Chief Operation Manager, Eastern Railway, Fairlie Place, Calcutta-1.
5. Divisional Railway Manager, Eastern Railway, Malda Town, Malda.
6. Sr. Divisional Operation Manager, Eastern Rly., Malda Town, Malda.
7. Divisional Personnel Officer, Eastern Railway, Malda Town, Malda.

... Respondents

For the applicant(s) : Mr. Samir Ghosh, counsel

For the respondents : Mr. P.K. Arora, counsel

Heard on : 9.6.2000

Order on: 9.6.2000

O R D E R

D.Purkayastha. J.M. :-

In this application the applicant has raised a dispute regarding assignment of his seniority position in the Seniority List published on 11.1.1993 modifying the earlier Seniority List published on 15.10.1992 in pursuance of the judgement of the Patna Bench of Central Administrative Tribunal. It is stated by the applicant that he was regularised as Goods Guard with effect

from 25.7.1989. It is stated by the applicant that he initially joined Railway Service in the year 1969 as a substitute porter at Sahibganj and thereafter he ^{was} transferred to various places. Finally, he was transferred to Malda. Applicant further states that on 19.1.1980 he was regularised as Shuntman. Thereafter he was appointed as Goods Guard on ad-hoc basis with effect from 1.6.1986. Finally, his appointment as ad-hoc Goods Guard was regularised with effect from 25.7.1989. It is stated by the applicant that after the judgement of the Hon'ble Patna Bench in O.A.No.36 of 1991 in the case of Durga Prasad Ram Vs. Union of India & Crs., respondents published a Seniority List on 10.2.1992 and his position was placed at Sl. No.39. Thereafter, respondents again published a Seniority List on 15.10.92 modifying the earlier one and his position was placed at Sl. No.42. Applicant did not dispute that fact; rather he accepted his seniority position as shown in the Seniority List dated 15.10.1992. The grievance of the applicant is that respondents without giving any notice to the applicant prepared and published a Seniority List on 11.1.1993 lowering down his position and persons who joined after the applicant were assigned seniority position over the head of the applicant. Being dissatisfied with and aggrieved by the said wrong assignment of seniority position, applicant made a representation dated 10.2.1993 to the Authority. Thereafter, he made a reminder vide letter dated 8.6.1993 stating all the relevant aspects of the matter and praying for correct assignment of seniority on the basis of the date of joining the post as also ordered by the Hon'ble Tribunal. In response to that representation respondents vide Memo dated 16.2.1994 rejected his representation stating that in obedience to the order of the Hon'ble Tribunal the seniority of the applicant has been correctly assigned. Thereafter, applicant in protest against the said order of rejection wrote a letter on 11.4.94 to the Authority. But no action was taken on that letter. However, on 15.6.1995, a provisional Seniority List of Goods Guard as on 1.5.95 was

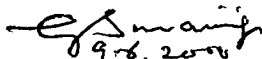
prepared assigning wrong seniority position to the applicant. It is stated by the applicant that against the said seniority list contained in Annexure 'F' to the application, he made a categorical representation on 15.7.1995 claiming his seniority position over the alleged junior persons. But respondents disposed of the representation rejecting his prayer.

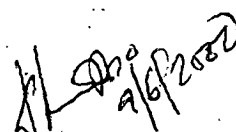
2. We have heard ld. counsels of both the parties and we have gone through the records. We find that the applicant made a representation dated 15.7.1995 for correct assignment of his seniority position and respondents disposed of the said representation vide letter dated 22.3.1996 (Annexure 'H' to the application) stating that :-

" Your representation dated 7.12.95 has been examined again by the competent authority very carefully and this is to inform you that this office has nothing to add further to this office letter of even no. dtd. 16.2.94, 24.8.95 & 22.12.95."

We have also gone through the letter dated 16.2.1994, which according to the applicant is the first letter of the respondents written in pursuance of his representation dated 10.2.1993 rejecting his representation. The letter dated 16.2.1994 has been marked as Annexure 'D' to the application. However, on perusal of the letters dated 16.2.1994 and 22.3.1996 (Annexure 'D' and 'H' to the application) we are of the view that the said orders rejecting the representation of the applicant are devoid of reasons and cryptic in nature. No reasons have been assigned by the respondents as to why his claim of seniority cannot be accepted by the Authority. It is a mandatory provision under the Rules that the Authority should give the reasons at the time of passing any order rejecting the prayer of the Govt. Employee. But in this instant case the respondents failed to follow this principle. More over, we find that no opportunity

of being heard was given to the applicant before publishing the Seniority List dated 11.1.1993 modifying the earlier Seniority List published on 15.10.1992 in pursuance of the judgement of the Patna Bench of Central Administrative Tribunal as a result of which some of his juniors were assigned seniority position over his head. We are satisfied that applicant has genuine grievance in this case. We, therefore, send back the case to the respondent No.3 i.e. Chief Personnel Officer, Eastern Rly., Fairlie Place, Calcutta -1 to re-consider the representations of the applicant and to re-examine the case of the applicant and to pass appropriate order after giving sufficient opportunity of being heard to the applicant. Accordingly, we set aside the order dated 16.2.1994 and 22.3.1996 (Annexure 'D' & 'H' to the application). Respondents are directed to dispose of the representations of the applicant within three months from the date of communication of this order. With this observation we dispose of this application awarding no costs.


9.6.2000
G.S. MAINGI
MEMBER (A)


9/6/2000
D. PURKAYASTHA
MEMBER (J)

a.m.