

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH

JODHPUR

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DATE OF ORDER : 02.08.1999

O.A.NO. 405/1995

Sher Singh Panwar S/o Shri Bhanwarlal Ji by caste Panwar (Mali), aged about 26 years, R/o at present working as Ticket Collector, Northern Railway at Jodhpur.

APPLICANT

VS.

1. The Union of India through its General Manager (E), Western Railway, Headquarter Building, Church Gate, Bombay.
2. The Divisional Railway Manager, Western Railway, Ajmer.
3. The General Manager (E), Northern Railway, Headquarter Building, Baroda House, New Delhi.
4. The Divisional Railway Manager, Northern Railway, D.R.Ms Office, Jodhpur.
5. Shri Praveen Kumar Parihar at present working as Ticket Collector, Northern Railway at Jodhpur.

RESPONDENTS

CORAM :

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

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Mr. S.N.Trivedi, Counsel for the applicant.

Mr.R.K.Soni, Counsel for the respondents No. 1 to 4.

None present for the respondent No. 5.

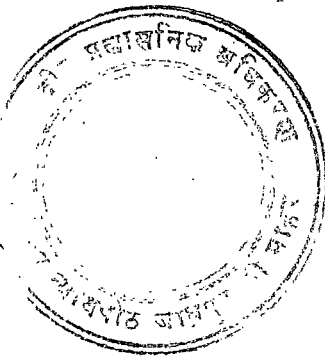
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PER MR.A.K.MISRA

The applicant has filed this Original Application with the prayer that order dated 3.2.1995 (Annex.A/1), qua the respondent No. 5, be quashed and set aside and the applicant be promoted to the post of Leave Reserve Travelling Ticket Examiner (for short "L.R.T.T.E."), in the pay scale of Rs. 1200-2040 w.e.f. the date of his juniors' <sup>were</sup> promoted with all consequential benefits. The applicant has also prayed that the applicant may be assigned the correct seniority on finalising the seniority list by considering the objections of the applicant. The applicant has also claimed arrears of salary along with interest.



2. Notice of the O.A. was given to the respondents who have filed their reply to which no rejoinder was filed by the applicant.

3. We have heard the learned counsels for the parties and gone through the case file. In order to appreciate the real controversy in this matter, facts are narrated in brief as follows :-

The applicant was appointed as Ticket Collector on 25.7.1990 and was posted at Marwar Junction under the Ajmer Division of Western Railway. With effect from 31.3.1993, the applicant was promoted as L.R.T.T.E. in the pay scale of Rs. 1200-2040. It is further alleged by the applicant

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that at his own request he was transferred to Jodhpur Division of Northern Railway vide letter dated 23.3.1993 of the General Manager (E), Western Railway, Bombay. In pursuance of the aforesaid order, the Divisional Railway Manager, Western Railway, Ajmer, relieved the applicant vide his letter dated 9.7.1993. Thereafter, the applicant joined his services at Jodhpur Station under the control of Divisional Railway Manager, Northern Railway, Jodhpur, in July 1993, as Ticket Collector. It is further alleged by the applicant that Shri Praveen Kumar Parihar, Respondent No. 5, had initially joined as Ticket Collector on 9.3.1991 in Ajmer Division of Western Railway, through direct recruitment and was applicant's junior. Shri Praveen Kumar Parihar had also applied for Inter-Railway transfer later-on to the applicant. Inter Zonal transfer of Shri Praveen Kumar Parihar, was ordered vide letter dated 22.4.1993 and in pursuance thereof Shri Praveen Kumar Parihar was transferred and relieved vide letter dated 25.5.1993 of Divisional Railway Manager, Western Railway, Ajmer and consequently Shri Praveen Kumar Parihar joined the duties in Jodhpur Division of the Northern Railway in the month of May 1993. It is contended by the applicant that Shri Praveen Kumar Parihar was all through his junior but the applicant was relieved on a later date than Shri Parihar on administrative grounds and consequently, Shri Praveen Kumar Parihar joined Jodhpur Division earlier than the applicant. Since Shri Parihar was



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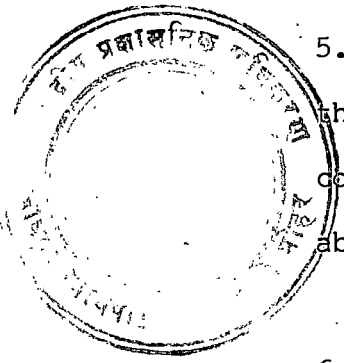
all through applicant's junior, therefore, he cannot become senior simply because he could join Jodhpur Division earlier than the applicant who was not relieved by the Divisional Railway Manager, Western Railway, on administrative ground. Although, the inter zonal transferring authority in both the cases, was one and the same. The applicant has claimed his seniority over Shri Praveen Kumar Parihar (respondent No.5) on the ground that applicant's seniority has wrongly been assigned by the Jodhpur Division of Northern Railway. The applicant has also claimed to be promoted on the post of L.R.T.T.E. in the pay scale of Rs. 1200-2040 as has been given to Shri Praveen Kumar Parihar ignoring the applicant. It is alleged by the applicant that for no fault of the applicant, he has been attributed wrong seniority simply because he could not join due to late relieving by the Divisional Railway Manager, Western Railway.



4. The respondents have stated in their reply that in inter zonal transfer, the incumbent is given bottom most seniority and his seniority is attributed from the date of joining. In this case, Shri Praveen Kumar Parihar had joined earlier than the applicant. Subsequent to the joining of Shri Parihar number of candidates had joined by way of direct recruitment and then the applicant had joined on his transfer from Ajmer Division. Therefore, the applicant cannot claim seniority above all the candidates including Shri Praveen Kumar Parihar, who

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had joined prior in time than the applicant. The O.A. is liable to be dismissed.



5. Both the learned counsels for the parties elaborated their arguments on the basis of their pleadings which we have considered keeping in view the facts of the case as narrated above.

6. There is nothing on record to show that in Ajmer Division Shri Praveen Kumar Parihar (respondent No.,5) was applicant's junior but even this ~~be~~ so, it makes no difference in the case of inter zonal transfer. Whenever, a Government servant is transferred from one seniority unit to another seniority unit then as per rules in vogue, he is assigned bottom most seniority in the transferee unit. In such matters, it is of no consideration as to whether the transferred person was not relieved on administrative grounds. In the transferee unit his date of joining is the guiding factor for placement of seniority. If Shri Praveen Kumar Parihar was relieved earlier and could join earlier then he would be placed in the seniority list accordingly. It is pertinent to note that inter zonal transfers of both these persons were made by one authority but there are two different transfer orders passed at two different times. Therefore also, it cannot be interpreted that in order to harm the applicant or to affect his seniority, he was intentionally relieved ~~de late~~. It is generally seen that while relieving the concerned Government servant on such inter zonal transfers, pending work is required to be cleared by the concerned person. There may be other reasons also for which relieving may be delayed. But in our opinion, <sup>in view of</sup> specific provision of

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placement of position in the seniority list as per the date of joining and bottom most seniority being assigned, earlier seniority has got no relevance. Thus, in the instant case, the applicant cannot claim any advantage of his being senior to Shri Praveen Kumar Parihar in Ajmer Division of Western Railway. The applicant has not been able to show that in the seniority list, his date of joining has been shown wrongly. In our opinion, there is no reason which may enable the applicant to get his placement above Shri Praveen Kumar Parihar in the Jodhpur Division of Northern Railway in the seniority list of T.T.E.



7. Promotion in the instant case were granted on the post of L.R.T.T.E. as per the seniority position of the candidates. The applicant has not been able to point-out that somebody junior to him has been promoted on the post of L.R.T.T.E. ignoring the applicant's case. In view of this, the applicant cannot claim to be promoted on the post of L.R.T.T.E. as per his claim of being senior to Shri Praveen Kumar Parihar, in the earlier seniority unit of Ajmer Division of Western Railway.

8. The O.A., in our opinion, bears no merit and deserves to be dismissed and is hereby dismissed. The parties are left to bear their own costs.

*Gopal Singh*  
(GOPAL SINGH)  
Adm. Member

*A.K. Misra*  
(A.K. MISRA)  
Judl. Member

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