

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....

Date of order : 10.5.2000

O.A.NO. 63/1995

Shri Kishan Lal S/o Shri Dharam Das, aged about 40 years, R/o Juni Bagar, Kila Road, Ram Bhawan Ke Samne, Ambedkar Basti, Jodhpur, at present employed on the post of Fitter Grade III in Carriage and Wagon Department at Jodhpur, Northern Railway.

.....Applicant.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.

2. The Divisional Railway Manager, Northern Railway, Jodhpur Division, Jodhpur.

3. The Divisional Mechanical Engineer (C&W), Northern Railway, Jodhpur Division, Jodhpur.

The Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.

Smt.Dhanni Wife of Sh.Bhanwar Lal, Fitter II, C/o Carriage Divisional Officer (CDO), Sickline, Locoshed, Northern Railway, Jodhpur.

6. Radha Kishan Thanvi S/o Shri Ram Chandra, Fitter II, C/o Carriage Division Officer, Sick Line, Locoshed, Northern Railway, Jodhpur.

7. Shri Dinesh Kumar S/o Shri Shyam Lal Fitter II, C/o Carriage and Wagon Superintendent (CWS), Sick Line, Bhagat Ki Kothi, Northern Railway, Jodhpur.

8. Shri Kana Ram S/o Shiv Ram, Fitter II, C/o Carriage and Wagon Superintendent (CWS), Sick Line, Bhagat Ki Kothi, Northern Railway, Jodhpur.

9. Smt.Rukanini W/o Shri Suraj Mal, Fitter II C/o Carriage and Wagon Superintendent (CWS), Sick Line, Bhagat Ki Kothi, Northern Railway, Jodhpur.



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Respondents No. 5 to 9 are impleaded as party in representative capacity.

.....Respondents.

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Mr.J.K.Mishra, Counsel for the applicant.

Mr.R.K.Soni, Counsel for the official respondents.

None is present for the private respondents.

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CORAM :

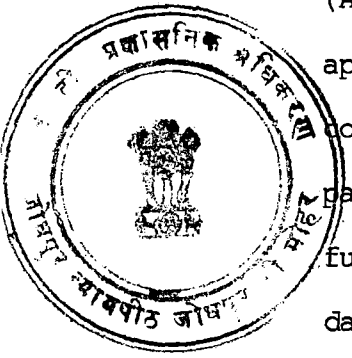
HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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PER HON'BLE MR.JUSTICE B.S.RAIKOTE :

This Application is filed challenging the Seniority List dated 1.8.1988 (Annex.A/2) and confirmed vide letter dated 15.2.1989 (Annex.A/3), contending that it was an erroneous seniority list. The applicant further prays that the official respondents may be directed to consider the applicant's case for promotion to the next higher post at par with his juniors, with all consequential benefits. The applicant further prays that his name may be directed to be included in the panel dated 10.5.1990 (Annex.A/4).



2. It is the specific case of the applicant that he was senior to the private respondents in the post of khalasi. To show that he was senior to the private respondents, the applicant relies upon Annex.A/5 and contended that in Annex.A/5, he is at No.10 and the name of respondent 5 is at No.21 and the name of respondent 6 is at No.60 and the name of respondent 7 is at No.19 and the name of respondent 9 is at No.51. On this basis, he contends that he was senior to the private respondents, therefore, he should have been promoted earlier to them, whereas, the private respondents were promoted to the post of Khalasi in the month of April 1987 and the applicant was promoted only on 1.10.1987 vide Annex.A/7. He stated that on the basis of such wrong promotions made to the private respondents, the respective names have been included in the seniority list, as if they were seniors to the applicant. In

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fact the applicant is senior to the private respondents, therefore, the seniority list is required to be modified and corrected.

3. By filing counter, the official respondents have denied the case of the applicant. They have stated that the seniority list vide Annex.A/2, has been prepared on the basis of the respective promotions of the applicant and the private respondents, to the post of Khalasi-Helper. The private respondents were promoted in the month of April 1987 whereas the applicant was promoted in the month of October 1987, therefore, he would be junior to the private respondents. Thus, the dates of promotion have been incorporated in the seniority list and accordingly seniority list is prepared. In the seniority list, Annex.A/2 of the Khalasi-Helper post, the applicant is at No.162, whereas the private respondents are over and above him at Nos. 111, 138, 110, 100 and 132. It is further contended that Annex.A/5 is not a seniority list. It is only the result of the trade test indicating whether a particular person has passed or failed. This has not been prepared on the basis of any ranking. As such, applicant's name, being found at sl.No.10 and the private respondent names being found below No.10 at 19, 21, 51 and 60, would not have any consequence. The learned counsel for the official respondents stated that Annex.A/5 has been prepared only to show whether a particular person found in the list, has passed or not and it was not based on any ranking. It was not a panel prepared for selection. Hence, the applicant cannot rely upon Annex.A/5 to show that he was senior to the private respondents. Accordingly, he submitted that there is no merit in this application.

4. We have given very anxious consideration to the facts of the case. The applicant intends to base his claim on Annex.A/5 but as explained by the official respondents, this order is only a result-sheet clearly indicating that who has passed and who has failed, as against the names as were found in the list. From going through Annex.A/5, we find that this is not a panel or a list prepared on the basis of



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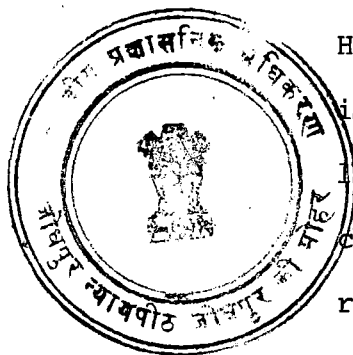
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ranking. If, incidently, applicant's name is figured at No.10 and private respondents' names figured below no.10, it would not have any consequential effect as long as the same has not been prepared on the basis of any merit or ranking. Apart from Annex.A/5, the applicant has not produced any seniority list pertaining to the post of Khalasies i.e. the feeder cadre, to show ~~we can know~~ that he is senior to the respondents No. 5 to 9. This Annex.A/5 remains and continues to be only a declaration of result of the trade test and the applicant cannot substantiate his claim on the basis of Annex.A/5 that he was senior to the private respondents.

may be

5. The case also/looked into from another angle. The fact, that the private respondents were promoted to the post of Khalasi-Helper "a promotional post to the post of Khalasi" in the month of April 1987 whereas, the applicant has been promoted to the post of Khalasi-Helper only in the month of October, 1987, vide Annex.A/7. ^{is admitted.} If that is so, the applicant has been promoted to the post of Khalasi-Helper later than the private respondents. The applicant has not challenged the promotion orders made in favour of the private respondents as against his promotion vide Annex.A/7 dated 1.10.1987, therefore, the promotion of private respondents in the month of April 1987 and the promotion of the applicant in the month of October 1987, attained finality and on the basis of these promotions, the seniority list Annex.A/2 is prepared. If that is so, we do not find that there is any error or mistake in the seniority list of Khalasi-Helper vide Annex.A/2.

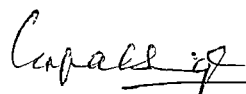


6. Further, the learned counsel for the applicant submits that promoting the private respondents earlier to the applicant, was erroneous and it was an error on the part of the department because he was senior to the private respondents on the basis of Annex.A/5 (proceedings declaring the results of the trade test). In support of his contention, he relied upon Paragraph 228 of Indian Railway Establishment Manual, Volume I. It is no doubt/mentioned in this para that if there is any error in respect of promotions, the same

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can be corrected by the department. But, in the instant case, there is no error on the part of the Railway department in promoting the private respondents earlier to the applicant. As we have stated above, the applicant has not proved by any cogent evidence that he was senior to the private respondents, perse on the basis of their promotion to the next cadre of Khalasi-Helper, admittedly, the private respondents were promoted earlier to the applicant. At the cost of repetition, again we may note that the ~~respective dates of promotions~~ ~~different~~ private respondents were promoted in the month of April 1987 and regarding the applicant, he was promoted in the month of October 1987. Their promotion orders cannot be said to be based on an error for the purpose of Paragraph 228 of Indian Railway Establishment Manual, Vol.I. When the promotion order in favour of private respondents were issued earlier to the applicant, which had become final, and consequently seniority list is prepared on that basis, we do not think that there is any error or mistake in the seniority list. Under Paragraph 319 of the same Manual, it has been specifically provided that a Railway servant once promoted in his turn after being found suitable against a vacancy, which is non fortuitous, should be considered as senior in that grade to all others who are subsequently promoted after being found suitable. Admittedly, the applicant was promoted subsequent to the private respondents and there is no error in passing the order Annex.A/2. Accordingly, we have to hold that the applicant is not entitled to any relief. Hence, we pass the order as under :

7. The Application is dismissed but in the circumstances without costs.



(GOPAL SINGH)
Adm.Member



(B.S. RAIKOTE)
Vice Chairman

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(copy retained)
dated 17/10/06
(for Raj Karmal Soni)



R/Copy
on 17/10/06
B.G. (B. Karmal Soni)
(on behalf Mr. J. K. Mishra)

Part II and III destroyed
in my presence on 27.10.06
under the supervision of
section officer () as per
order dated 23.10.06

Section officer (Record)