

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 273/1997
F.A. No.

199

DATE OF DECISION : 17.02.2000.

Hukmi Ram & Anr. Petitioner (s)

Mr. N.K. Khandelwal, Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent (s)

Mr. S.S. Vyas, Advocate for the Respondent (s)
1 to 4

None is present for Respondents No. 5 to 6



CORAM :

The Hon'ble Mr. A.K. Misra, Judicial Member

The Hon'ble Mr. Gopal Singh, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? *AN.*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *AN*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *NO*

Gopal Singh
(Gopal Singh)
Adm. Member

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR

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Date of order : 17.2.2000

O.A. No. 273/1997

1. Hukmi Ram son of Tarachand resident of Plot No. 73, Sharamikpura, Masuriya, Jodhpur, at present working as Highly Skilled Gr.I under Dy. Chief Mechanical Engineer (Workshop), Shop No. 16, Northern Railway, Jodhpur.
2. Mohd. Sharif son of Abdul Hakim aged about 47 years resident of Bakra Mandi, Near Ganesh Garh, New Chandpole Road, Jodhpur, working as Highly Skilled Gr.I under Dy. Chief Mechanical Engineer (Workshop) Shop No. 16, Northern Railway, Jodhpur.

... Applicants.

v e r s u s

1. Union of India through General Manager, Northern Railway, Baroda House, Headquarters, New Delhi.
2. Dy. Chief Mechanical Engineer (Workshops), Northern Railway, Jodhpur.
3. Divisional Personnel Officer, Northern Railway, Jodhpur.
4. Assistant Personnel Officer (Workshop), Northern Railway, Jodhpur.
5. Shri Hemsingh Ticket No. 1455 Highly Skilled Fitter T/L under Shop 16, Office of the Dy. Chief Mechanical Engineer, Northern Railway, Jodhpur.
6. Shri Amritlal Highly Skilled Gr.I Fitter T/L Shop No.16, Ticket No. 6513, C/o. Dy. Chief Mechanical Engineer, Northern Railway, Jodhpur.

... Respondents.

Mr. N.K. Khandelwal, Counsel for the applicant.

Mr. S.S. Vyas, Counsel for the respondents Nos. 1 to 4.

None is present for respondents Nos. 5 and 6.

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CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(Per Hon'ble Mr. Gopal Singh)

Applicants, Hukmi Ram and Mohd. Sharif, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the letter dated 26.5.97 (Annexure A/1), letter dated 23.7.97 (Annexure A/2) and further for a direction to the respondents to consider the applicants for trade test for promotion to the post of Master Craftsman.

2. Applicants' case is that both of them are senior to respondents Nos. 5 and 6. However, in the seniority list circulated vide Annexure A/1 both of them have been shown junior to respondents Nos. 5 and 6. Respondents Nos. 5 and 6 (both of them are reserved category candidates) were promoted to Highly Skilled Grade-II on 1.1.84 on points reserved for SC/ST and the applicants though senior were promoted on 12.4.86. Both the applicants and the respondents Nos. 5 and 6 were promoted to Highly Skilled Grade-I on 1.1.93. It is the contention of the applicants that in terms of law laid down by Hon'ble the Supreme Court, both the applicants should be accorded seniority over respondents Nos. 5 and 6 because both the applicants were promoted to Highly Skilled Grade-II while respondents Nos. 5 and 6 were also holding the post of Highly Skilled Grade-II. On coming over to Highly Skilled Grade-I, both the applicants deserve to be placed in the seniority list above respondents Nos. 5 and 6 and further in Highly Skilled Grade-I, both the applicants would rank senior to respondents Nos. 5 and 6.

3. By way of interim relief, the respondents were directed by our order dated 13.8.97 not to promote the successful trade test candidates in pursuance of their notification dated 23.7.97 for the post of Master Craftsman (TL) grade Rs. 1400-2300.

4. Notices were issued to the respondents and they have filed their reply. It is the contention of the respondents that

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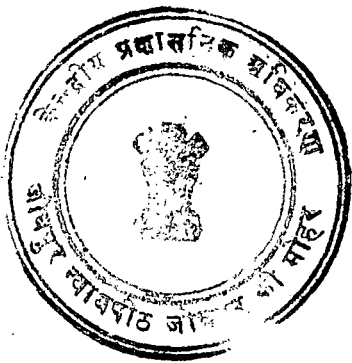


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respondents Nos. 5 and 6 have been placed above the applicants in the seniority list dated 26.5.97 (Annexure A/1) in terms of Railway Board's directions following the law laid down by Hon'ble the Supreme Court in Veerpal Singh Chouhan's case.

5. We have heard the learned counsel for the parties and perused the records of the case. In the latest judgement in Ajit Singh and Others (II) vs. State of Punjab and Others, 1999 SCC (L&S) 1239, Hon'ble the Supreme Court has held as under:-

"Reserved category (roster point) promotees vis-a-vis general category promotees - Reserved candidates at Level 1 who were promoted to Level 2 at the roster points meant for such promotion whether can claim seniority at Level 3 on the basis of continuous officiation- Where statutory rules provide a single scheme for promotion based on seniority-cum-merit and then for seniority to be determined in the promotional post from the date of continuous officiation whenever the promotion is as per the method prescribed in the rules, held, roster point promotees being not promoted on seniority-cum-merit basis, their seniority cannot be determined on the basis of length of their continuous officiation on the promotion post by delinking the seniority rule from the promotion rule- Consequently, the general candidates, who were senior to the reserved candidates at Level 2 and were promoted to Level 3 before the reserved candidates reach the Level 4, have to be treated as senior at Level 3 also even though they had reached Level 3 late than the reserved candidates - Seniority at Level 3 must be modified accordingly and on that basis, promotion to Level 4 must be made - If any reserved candidate is promoted to Level 4 ignoring the seniority of the general candidates, seniority at Level 4 must be refixed - but if any reserved candidate reaches Level 3 by roster-point promotion prior to the erstwhile general candidates and if he is otherwise eligible and post is also available at Level 4, he cannot be denied right to be considered for promotion merely because his erstwhile seniors at the entry level had not reached Level 3 by then - Even if seniority of roster-point promotee does not count, experience of both groups can be considered as part of merit for further promotion - Those already promoted as a result of misapplication of roster, however, need not be reverted as that would cause hardship to them - But they would not be entitled to claim seniority in the promotional cadre."



6. In the light of above judgement of Hon'ble the Supreme Court, both the applicants deserve to be placed above respondents Nos. 5 and 6 in the Highly Skilled Grade-II and Highly Skilled Grade-I cadre and they will be entitled to be called for selection test for the post of Master Craftsman earlier to respondents Nos. 5 and 6. Since the post of Master Craftsman is a selection post, promotion to which is necessarily through the

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trade test, we had vide our order dated 08.01.2000 directed the respondents to put both the applicants to trade test for the post of Master Craftsman and results of the applicants alongwith the results of the candidates who took trade test earlier in terms of respondents' letter dated 23.7.97 (Annexure A/2) be produced before us. It is pointed out by the respondents that the applicant No.1 (Hukmi Ram) had already retired in 1998 and therefore, they had conducted the trade test for applicant No.2 (Mohd. Sharif). The respondents have also placed before us a sealed cover containing the results of the trade test. They have also submitted for our perusal the results of three candidates who were trade tested earlier in terms of respondents' letter dated 23.7.97.

7. As has been stated earlier, the applicants would rank senior in Highly Skilled Grade-I and, therefore, eligible to be called for trade test before respondents Nos. 5 and 6. It is seen from the result placed before us that the applicant No.2 (Mohd. Sharif) has been found suitable for the post of Master Craftsman. In earlier test conducted by the respondents in terms of their letter dated 23.7.97, two candidates have been found suitable. Therefore, applicant No. 2, Mohd. Sharif, ~~deserves~~ to be placed on the panel for promotion to the post of Master Craftsman in terms of seniority discussed above and promoted accordingly. It has also been confirmed by the learned counsel for the respondents that there are three posts of Master Craftsman available and, therefore, all the 3 qualified candidates would find place on the panel for promotion to the post of Master Craftsman. Since the promotion to the post of Master Craftsman would be from a prospective date, the applicant No. 1 (Hukmi Ram) who has since retired would not be affected adversely.

8. In the light of above discussion, the application deserves to be allowed.

9. The O.A. is accordingly allowed. The applicant No. 1 and 2 would be placed above the respondents Nos. 5 and 6 in the seniority list circulated vide respondents' letter dated 26.5.97 (Annexure A/1) and the applicant No.2 (Mohd. Sharif) will be placed on the panel for promotion to the post of Master Craftsman as per the seniority discussed hereinabove and promoted to the

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post of Master Craftsman as per his turn in the panel.

10. Parties are left to bear their own costs.

Gopal Singh
(GOPAL SINGH)
Adm. Member

2m
17/11/2020
(A.K. MISRA)
Judl. Member

cvr.

RF 2
07/2
21/2/2007

Rank
Sgt
21/2

Part II and III destroyed
in my presence on 26.2.06
under the supervision of
section officer U. as per
order dated 23/2/06

Section officer (Record)

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