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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No.75/2003

Date of decision: 17.09.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman,

Hon'ble Mr. R.R. Bhandari, Administrative Member.

1. Sunil Kumar Yadav, S/o Shri Balak Ram Yadav aged about 32 years resident of 63-C Railway Colony Palanpur at present employed on the post of Signal Inspector Grade II under Chief Signal Inspector Abu Road, N/W Railway Ajmer Division.
2. Sanjeev Kumar Verma, s/o Shri Bankelal Verma aged about 36 years at present employed on the post of Signal Inspector Gr. II under Chief Signal Inspector (M) Abu Road, N/w Railway, Ajmer Division
3. Awadesh Kumar Sharma, S/o Shri Sukh Sagar Sharma aged about 35 years at present employed on the post of Signal Inspector Gr. II under Chief Signal Inspector (M) Abu Road, N/w Railway Ajmer Division.

: Applicants.



Rep. By Mr. B. Khan : Counsel for the applicants.

VERSUS

1. Union of India through General Manager, North Western Railway, Jaipur.
2. Union of India through the General Manager, Western Railway, Church Gate Mumbai.
3. Divisional Railway Manager, North Western Railway, Ajmer Division, Ajmer.
4. Sr. Divisional Personnel Officer, North Western Railway, Ajmer Division, Ajmer.
5. Shri Rakesh Prakash Sharma, Signal Inspector II under CSI (M) Ajmer.
6. Shri N.k. Goel, Signal Inspector II Marwar Junction.

: Respondents.

Shri Vinay Jain : Counsel for respondents 1 to 4

Shri R.s. Panwar proxy counsel

For Mr. K.K. Vyas

: Counsel for R.5

Mr. S.K. Malik : Counsel for R.6.

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H18**ORDER.****Per Mr. Kuldip Singh, Vice Chairman.**

This application has been filed by three applicants. All of them are working under the Chief Signal Inspector Abu Road, Ajmer Division. They are challenging the impugned order dated 21.11.2000 (annex. A/1) and the seniority list dated 28.03.2001 (Annex. A/2). They have claimed that the said seniority list had been issued erroneously. The applicants claimed that they have been recruited as Signal Inspector (S.I. for short) Gr. III, through an examination held in pursuance to an advertisement No. RRB/Recruitment/2/90/3/91. After passing the examination they were appointed to the post of Signal Inspector Gr. III and they were sent for training. They have completed the two years training and were posted at Abu Road as Signal Inspector Gr. III in the pay scale of Rs. 5000-8000. They were further promoted as Signal Inspector Gr. II in the pay scale of Rs. 5500-9000 as per the details given below:



SI No.	Name	Date of Training w.e.f.	Date of apptt. after training post of SI Gr.III	Date of promotion as SI Gr.II
1.	Sunil Kumar	29.03.92	01.03.94	27.02.98
2.	Sanjeev Kumar	25.01.93	21.02.95	10.02.99
3.	Awadesh Kumar	29.03.92	21.04.94	27.02.98

The above dates are reflected in the seniority list of S.I. Grade II and Gr. III dated 29.03.2001 of Ajmer Division. Respondent NO. 5 Shri Rakesh Prakash Sharma was working on the post of S.I. Gr. III in Kota division was transferred to Ajmer Division on his own request vide respondents letter dated 19.08.97, with the condition

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that he will go to the bottom seniority to those who were working in Gr. III. Respondent No. 6 Shri N.K. Goel was selected through RRB Ahmedabad on 02.12.91 and was allotted to Bhavnagar Division and after completion of training he was appointed in Bhavnagar Division on 02.03.94. as S.I. Gr. III It is further stated that Respondent 6 was selected and appointed on the basis of a subsequent panel than that of the applicants and that too in other RRB and Division. Shri Goel was posted in Ajmer Division in open line under DSTE (M) vide letter dated 30.06.97 issued by Dy. CSTE(C) Ajmer. (annex. A/5). It is further stated that Dy CSTE (C) Ajmer was not competent to pass such an order. Respondent No. 6 got his further promotion as SI Gr. II with effect from 10.02.99 and was posted at Marwar. .

2. It is further submitted that a tentative seniority dated 18/31.05.94 (Annex. A/6) was issued in which the name of the applicants 1 & 3 were shown at Sl. No. 8 & 9 respectively. However an objection was raised by applicant No. 2 and after hearing the union as well as the concerned employees a final seniority list was issued on 12.11.1999 (Annex. A/7) in which the names of applicants 2,1 and 3 are shown at Sl. No. 8,9 and 10 respectively. However, a letter dated 21.11.2000 was issued by DRM office Ajmer regarding change/interpolation of names of respondents 5 & 6 above the applicants at Sl. No. 7A and 7B, in the seniority list dated 12.11.99 on the vague ground that their lien was transferred to Ajmer Division vide H.Q letter dated



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25.09.98. The applicants protested against the interpolation and submitted representation requesting the respondents not to interpolate the names of respondents 5 & 6 above the applicants. Their objections were partly accepted and Shri Goel R.6 was placed at Sl. No. 11 below the applicants and the name of Shri R.P. Sharma was kept above the applicants. Again vide letter dated 07.01/02.2002, the seniority of Shri Goel R.6 was changed and Annex. A/2 was declared as correct. The applicants by quoting the Para 306 of IREM submitted that a selectee of earlier panel would rank senior but no care was given to the provision and nothing was said about R.P. Sharma, when he came to Ajmer Division on own request on bottom seniority. The applicants have submitted number of representations but they were in vain. The applicants have submitted that Shri Goel was selected from a subsequent panel and that too in another division and Shri R.P. Sharma came on his own request on the bottom seniority and therefore both of them cannot be assigned seniority above the applicants and therefore the seniority list is required to be quashed.



The official respondents as well as the private respondent No. 6 are contesting the O.A by filing detailed replies. The official respondents have submitted that the seniority of R.5 and R.6 have been correctly assigned. The official respondents have denied that R.P. Sharma had been transferred on own request, rather he was transferred on administrative interest from one division to another division. Similarly Shri N. K. Goyal was also transferred on

⑤ administrative ground. As regards the appointment of Goyal is concerned he was appointed on 02.03.94, where as applicant Nos. 2 & 3 were appointed on 21.02.95 and 21.04.94 respectively and therefore the matter of seniority cannot be reopened now on this ground. It is also stated that the transfer of R.P. Sharma was in administrative interest and the same was ordered by a competent authority. Therefore the respondents have prayed for dismissal of the O.A.

4. The applicants have filed a rejoinder. It is stated that the transfer of R.5 and R.6 was not under administrative interest. It is also stated that the applicants are from an earlier panel whereas the R.6 and R.5 are from different panel. (page 67 of the paper book.) The applicants have alleged that their representations have not been properly considered. The applicants have generally denied the averments made in the reply. The official respondents have also filed additional reply supporting their stand taken in the reply to the O.A.



5. We have heard the learned counsel appearing for the parties and gone through the records carefully. Both the parties have admitted that the seniority is to be determined on the basis of date of appointment to S.I. Gr. III. The only question to be considered is whether the transfer of R.P. Sharma R.5 is on the basis of own request or on administrative grounds. In this regard the learned counsel for the official respondents took us through Annex. R/6

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dated 09.11.98 (page 56 of the paper book) on the subject "transfer of S.I. Gr.III" wherein it has been mentioned in first para that those employees who are desirous to transfer to Ajmer division are being transferred in the interest of administration. However, the learned counsel for the applicant had tried to interpret the word desirous and submitted that since the word desirous has been mentioned, the transfer should have been treated as on request and R.5 and R.6 should have been placed below them. A perusal of the Annex. R.6 clearly shows that the transfer of R.5 and R.6 had to be treated as in administrative interest and not on request basis. Further para 306 of IREM clearly states that seniority should be on the basis of date of appointment in the initial grade. Thus respondent No. 5 and respondent No.6 were transferred in the interest of railway administration.



6. Now the question arises is whether the seniority of the applicants and private respondents had been fixed in accordance with their date of appointment. In this regard, we may reproduce the averments of the official respondents themselves as stated in reply to para 4.2 of the O.A (page 35 of the paper book) which reads as under:

Sl. No.	Name	Date of training w.e.f.	DOA after training on post of GrIII.	Date of promotion S.I. Gr.II
1.	R.P. Sharma (R.5)	31.10.,90	24.10.91	03.12.97
2.	N.K. Goyal (R.6)	13.02.92	02.03.94	10.02.99
3.	Sanjeev Kumar (Applicant No.2)	25.01.93	21.02.95	10.02.99
4.	Awadesh Kumar (Applicant No.3)	29.03.92	21.04.94	27.02.98

(7)

5. Sunil Kumar
(Applicant No. 1)

29.03.92

01.03.94

27.02.98

According to the above, the date of appointment of Shri Goyal R.6 as S.I. Gr.III is shown as 02.03.94 i.e. one day after the appointment of Shri Sunil Kumar (applicant No.1) as S.I. Gr.III. But still the official respondents have shown him as senior to Shri Sunil Kumar. Similarly Shri Sanjeev Kumar, applicant No. 2 whose date of appointment as S.I. Gr.III is 21.02.95 has been shown as senior to Shri Awadesh Kumar (Applicant No. 3) and Shri Sunil Kumar. Shri Awadesh Kumar has also been shown as senior to Sunil Kumar. This fact has been admitted by the applicants in para 4.2 of the O.A.



As regards the inter se seniority of the applicants vis-à-vis the private respondents, the private respondents have been brought to Ajmer Division on administrative grounds. Since the seniority is to be determined on the basis of date of appointment as S.I. Gr.III, it appears that some clerical mistake had crept in while fixing the seniority and the same is evident from the table shown above as filed by the respondents themselves.

8. In view of the above position, we allow this O.A partly and direct the official respondents to make necessary correction in the seniority of the applicants vis-à-vis the private respondents as per the date of appointment after training on the post of S.I. Gr.III by taking into account para 306 of IREM and also the relevant rules and judicial pronouncements on the subject. [At the cost of

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repetition, we make it clear that the private respondents 5 & 6



have been transferred to Ajmer Division in the interest of Railway administration and not on own request.] This exercise should be

completed within a period of two months from the date of receipt

of a copy of this order. No costs.


R.R. Bhandari


(R.R. Bhandari)
Administrative Member

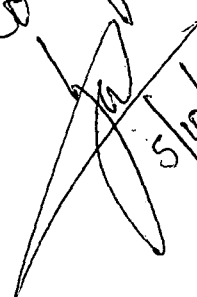
Kuldip Singh

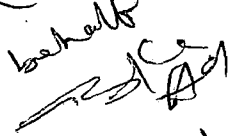
(Kuldip Singh)
Vice Chairman.

jsv

Rec

S. K. Mallick
27/9/10

R/Copy
on 27/9/07

C.B. Khan

Recd. Gp

5/10/07

R/Copy
on behalf of Mr. K. K. Nagesh

9/10/07