

क.प्र.श. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निः शुल्क रु.रा

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Mar 16, 2002
17/1
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17/1

O.A. No. 28/2002
X/XXXXXX.

199

DATE OF DECISION 18-10-02

Niranjan Verma

Petitioner

Mr. Daya Ram

Advocate for the Petitioner (s)

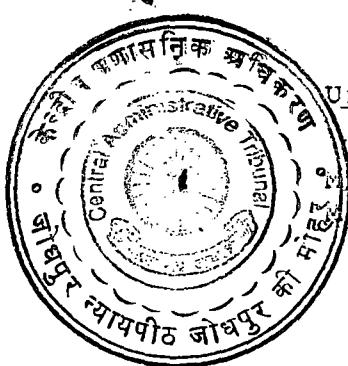
Versus

Union of India and 3 others

Respondent

Mr. R.K. Soni for R.1 to R.3 Advocate for the Respondent (s)

Mr. B. Khan for R.4



CORAM :

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. Gopal Singh, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

- sd -

- sd -

(GOPAL SINGH)
MEMBER (A)

(JUSTICE G. L. GUPTA)
VICE CHAIRMAN

II/7

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR.

Original Application No. 28/2002

Niranjan Verma
S/o Late Shri Rampal Verma
r/o c/o Telecom Inspector,
Abu Road, Near Railway School
Sirohi Dist. : Applicant

rep. by Mr. Daya Ram : Counsel for the applicant.

-versus-

1. Union of India through the
General Manager, Western
Railway, Church Gate,
Mumbai
2. Divisional Railway Manager,
Western Railway,
Ajmer (Rajasthan)
3. Divisional Personnel Officer,
Western Railway,
Ajmer (Rajasthan)
4. Shri Sunil Dutt Ranga
S/o Late Shri V.P. Ranga
C/o Chief Telecom Inspector,
DRM's office, Western Railway,
Ajmer (Rajasthan) : Respondents.

rep. by Mr. R.K. Soni : Counsel for respondents 1 to 3

Mr. B.Khan : Counsel for respondent No. 4

CORAM: The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman

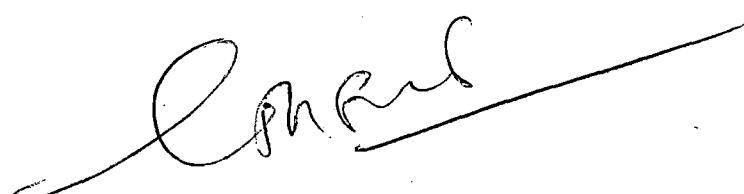
The Hon'ble Mr. Gopal Singh, Administrative Member.

Date of the order: 18-10-02

Per Mr. Justice G.L.Gupta

ORDER

The controversy involved in this O.A is
about the seniority position of the two appointees.



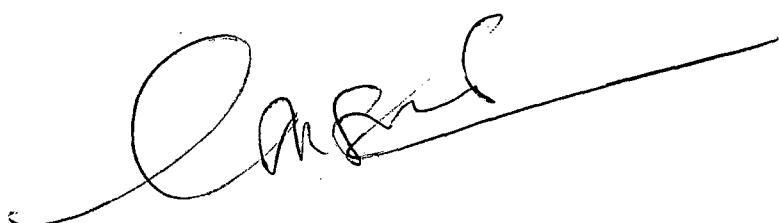
appointed on compassionate grounds.

2. The admitted facts of the case are these.

Respondent No. 4 was appointed as T.C.M. Gr.III in the scale of pay of Rs.950-1500 (pre-revised) Rs.3050-4500 (revised), on compassionate grounds vide order dated 30.4.97 and was sent for training of three years on monthly stipend in the scale of Rs.900-20-940 vide order dated 30.4.97. The applicant was appointed on compassionate grounds as T.C.M. Gr.III in the same scale of pay vide order dated 29.5.97, and was sent for training for 3 years on the same monthly stipend of Rs.900-20-940 vide order dated 1.5.97. The applicant passed the training course examination held on completion of 3 year period on 1.6.2000. The respondent No. 4, however, did not pass the training course examination held on 2.5.2000 on completion of 3 year period. He passed the training course examination held on 28.6.2000.

A seniority list of T.C.M. Gr.III was issued vide order dated 25.3.2001 (Annex. A) in which the applicant's name was shown at Sl. No. 33 and the name of R.4 was shown at Sl. No. 32.

3. The applicant's case is that he had passed the training course prior to R.4 and therefore he should have been treated senior to R.4. He made representations against the said seniority list but his representation was rejected vide order Annex. A.1



dated 29.10.2001. Hence this O.A.

4. In the counter, the official respondents have stated that the date of appointment of R.4 being earlier to the date of appointment of the applicant, the respondent No. 4, (R.4) has rightly been shown senior to the applicant as per para 306 of the Indian Railway Establishment Manual Vol. I (IREM vol. I for short).

5. We have heard the learned counsel for the parties and perused the documents placed on record.

6. Mr. Malik, learned counsel for the applicant contended that the seniority of the applicant and R.4 was required to be fixed in terms of Para 303(a) of IREM and as R.4 could not pass the training course examination in the first attempt, he ought to have been placed below the applicant in the seniority list of TCM Gr. III.

7. On the other hand, the learned counsel for the respondents canvassed that para 303 of IREM Vol. I is not applicable for the determination of seniority of the applicant vis-a-vis R.4, and on the basis of initial date of appointment, the inter-se seniority has been correctly fixed.

8. We have given the matter our thoughtful consideration. Para 303(a) of IREM Vol. I as amended by the Railway Board vide letter dated 19.3.93 on



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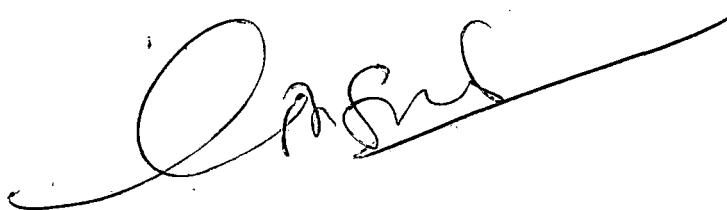
which reliance was placed by Mr. Malik is reproduced hereunder:

The Seniority of candidates recruited through the the Railway Recruitment Board or by any other recruiting authority should be determined as under:

" Candidates who are sent for initial training to Training Schools will rank in seniority in the relevant grade in the order of merit obtained

in the examination held at the end of the training period before being posted against working post. Those who join the subsequent courses and those who pass the examination in subsequent chances will rank junior to those who had passed the examination. In case, however, persons belong to the same RRB Panel are sent for initial training in batches due to administrative reasons and not because of reasons attributable to the candidates, the inter-se seniority will be regulated batch-wise provided persons higher up in the panel of RRB not sent for training in the appropriate batch (as per seniority) due to administrative reasons who took the training in the appropriate batch for the purpose of regulating the inter-se seniority provided such persons pass the examination at the end of the training in the first attempt."

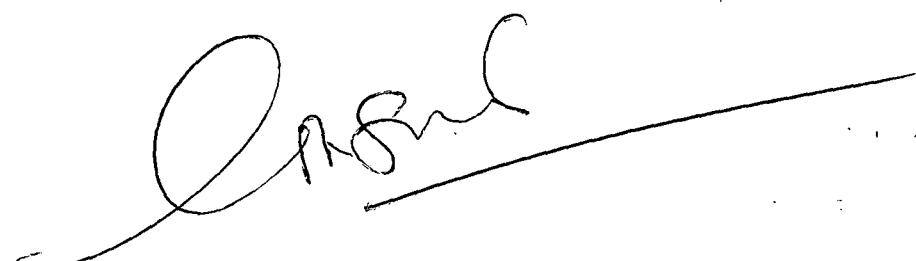
9. It is evident from the provision quoted above that the seniority of the candidates recruited through the Railway Recruitment Board or by any other recruiting authority, and initial training in the Training School is necessary for the post to which they are appointed, is to be fixed keeping in view the merit position obtained in the examination held at the end of the training period. It is further envisaged that a candidate who joins in the subsequent course or a candidate who fails in the examination held at the end of the training period ranks junior to the candidates who had already passed the Training School examination



in the first attempt. It is immaterial that the merit position of the candidates in the initial order of appointment was different. It is of course provided that if due to administrative reasons, candidates of the earlier batch are not sent for training, their inter-se seniority remains the same as was in the recruitment examination provided the candidates pass~~the~~ the examination in the Training School in the first attempt.

10. In the instant case, the applicant and R.4 did not belong to same batch. R.4 was appointed one month before the appointment of the applicant. Had the respondent No. 4 passed the Training course in the first attempt, there was no difficulty in fixing the seniority as he would have certainly ranked senior to the applicant. The difficulty arose because R.4 who was senior to the applicant on the basis of the date of appointment, failed in the Training School examination held at the end of the training period and he could pass the same in the second attempt.

11. On the basis of the provision quoted above, it has to be accepted that the applicant though appointed later to R.4 is entitled to be ranked senior to R.4, who had failed in the examination in the first attempt.

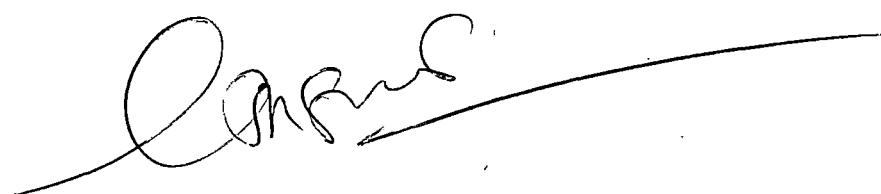


12. It is significant to point out that the seniority in the 'relevant grade' is to be fixed in the order of merit obtained in the examination held at the end of the training period. The 'relevant grade' obviously means the scale of pay Rs.950-1500 (revised Rs.3050-4500). R.4 having failed in the first attempt in the examination held after the training period was not entitled to have his seniority fixed in the 'relevant grade' of Rs.950-1500, unless he cleared the examination. Before passing the examination he could at best ~~continue~~ in the stipend ^{scale of} Rs.900-20-940.

13. It is manifest that on the date the applicant became entitled to the scale of pay of Rs.950-1500 i.e. on 1.6.2000, the respondent No. 4 though was appointed of earlier date did not become entitled to the grade of Rs.950-1500. Admittedly, R.4 passed the examination at the end of the training in the second attempt on 28.6.2000. Then only he became entitled to the grade of Rs.950-1500. That being so, in no circumstances he could be held senior to the applicant in the grade Rs.950-1500.



14. It is true that under the orders of the Government of India dated 31.3.92 under F.R. 26, training period undergone by a Government servant on remuneration is to be treated as duty for the purpose of drawing increments. but that does not make a candidate passing the training course examination



in subsequent attempts senior to the candidates (who passed the training course examination in the first attempt. The Government order dated 31.3.92 is to be read with reference to para 303(a), quoted above which clearly says that seniority in the 'relevant grade' is to be fixed on the basis of merit obtained in the examination held at the end of the training period. It is natural that the person who passes the examination on completion of the training period in subsequent chances will rank junior to persons who had passed the training course examination in the first attempt.

It is significant to point out that R.4 having failed in the examination held on completion of the training period was not allowed stipend in the extended period, which he was getting in the scale Rs.900-20-940. It follows that R.4 was not in any pay scale for certain period. He became entitled to the pay scale of the post for which he was appointed only when he passed the examination. In such circumstances, it has to be held that R.4 could not be treated senior to the applicant Niranjan Verma.

15. For the reasons stated above, the applicant is entitled to succeed in this O.A. The application is allowed. The seniority list dated 25.3.2001, insofar as it relates to the seniority position of the applicant and R.4 is hereby quashed. The order Annex. A.1 dated 29.10.2001 rejecting the claim of the applicant

is also quashed. The respondents are directed to re-fix the seniority of the applicant in the light of the above observations, within a period of two months from the date of communication of this order.

16. The applicant shall get costs Rs.2000/- from the official respondents.

Gopalsingh
(Gopal Singh)

Administrative Member

G.L. Gupta
(G.L. Gupta)

Vice Chairman

jsv.

