

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

OA No. 239/2010

Jodhpur this the 13th day of March, 2014.

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Girdhari Singh S/o Shri Lalu Ram Singh, aged about 46 years, resident of in front to Bhutto-ka-Kua, New Gajner Road, Bikaner, at present employed on the post of Tech-II Crane Driver (T No. 5216) in Railway Workshop Bikaner, NWR.

.....Applicant

(Through Adv. Mr J.K. Mishra)

Versus

1. Union of India through General Manager, North-West Railway, HQ Office, Hasanpura, Jaipur.
2. Chief Workshop Manager, North West Railway, Railway Workshop, Bikaner.
3. Workshop Assistant Electrical Engineer, North West Railway, Railway Workshop, Bikaner.
4. Shri Rajender Singh, Crane Driver (Elect) T No. 5314, O/o Workshop Assistant Electrical Engineer, North West Railway, Railway Workshop Bikaner.

..... Respondents

(Respondents No. 1 to 3 through Adv. Mr Vinay Jain)

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

The present OA has been filed against the impugned order dated 11.12.2009 (Ann.A/1), seniority list of Crane Drivers dated 15.7.2010 (Ann.A/2) and order dated 4.8.2010.

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2. The short facts of the case, as averred by the applicant, are that the applicant was initially appointed to the post of Khallasi on 09.02.1985 and earned his further promotions and lastly got promotion to the post of Technician Grade-II (as Crane Driver-II) w.e.f. 20.08.2004. 20 persons were transferred from Brass Finishing Shop of Mechanical Branch to Electric Shop AC/Train Lighting with their original seniority vide letter dated 30.03.1996 and after some further developments sanction was accorded to redeploy 14 surplus artisans belonging to Brass Finishing Shops vide letter dated 10.04.2007. Respondent No. 4 was also promoted in similar way from the post of Fitter-II to Fitter-I w.e.f. 05.03.2008 and his category is changed from Fitter to Crane Driver and on option basis he is posted as Elect. Tech-I in the category of Crane Driver. On the other hand posts from Electric Wing i.e. Power, AC and Train Lighting were surrendered which resulted into surplus of 21 Electric staff who were kept against supernumerary posts vide letter dated 23.09.2008. Some of them have been absorbed/redeployed or retired, and the applicant's name is also amongst them at S. No. 7 and he was redeployed as Crane Driver-II. At present 11 persons from Electric Branch are still to be absorbed. The Railway Board introduced a scheme of Skilling and Multi-trading in the category of Artisan employed in Electrical Department as well as in Mechanical Department for reducing the trade heads by training one person in various heads including a particular head and this is to be done department wise. It has been averred in the application that Power, AC Trade, Train Lighting or Crane Driver trades have never been clubbed together anywhere in India railway. The 2nd respondent issued letter dated 11.12.2009 which is said to have been issued with the approval of Chief Engineer HQ NWR, for carrying out the skilling and Multi-trading in Bikaner Workshop (Annex. A/1) and the same includes 14 surplus persons from Brass Finishing Shop designated as AC

Fitter. The 3rd respondent has issued a combined seniority list in respect of Crane Driver (Electrical) cadre interpolating names of Brass Finishing Staff by giving them their own seniority vide letter dated 15.07.2010 (Annex. A/2). In this seniority list, name of the applicant is placed at S.No. 1 on the post of Tech-II Crane Driver-II and the name of the respondent No. 4 has been included in Crane Driver-I/Tech-I at S. No. 4 although he belongs to mechanical department and is one of the surplus staff belonging to Brass Finishing Shop who has been allowed to change category from Fitter to Crane Driver on option basis. There were lot of protest against the aforesaid action of the official respondents vide letters Annex. A/9 and A/10 but the respondents instead of examining the points raised in the representations, issued the warning letter dated 04.08.2010 to the applicant. The applicant and some other affected persons contacted the 3rd respondent for redressal of their grievance but they were threatened and suggested to keep quite and they were also told that they should accept the new seniority and arrangement and nothing would be done in the matter, therefore, the applicant has filed this OA seeking following relief (s):

- (i) That impugned order dated 11.12.2009 (Annex. A/1), seniority of Crane Drivers dated 15.07.2010 (Annex. A/2), and dated 04.08.2010, passed by 3rd respondent (Annex. A/3), may be declared illegal and the same may be quashed. Respondents may be directed to prepare fresh seniority list after deleting the names of respondent No. 4 and other persons belonging to Surplus Brass Finishing Shop (erstwhile Mechanical Deptt) and allow all consequential benefits to the applicant.
- (ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iii) That the costs of the application may be awarded.

3. By way of reply, the respondent Nos. 1 to 3 have averred that right from 30.03.1996 to 06.06.2006, the staff of Brass Finishing Shop were being utilized as a separate unit and they were not clubbed with the staff of

Electric Shop till 06.06.2006, as they were transferred from Brass Finishing Shop to New AC Shop with post. Respondent No. 4 after his redeployment in the Electric Branch, no longer remained staff of Brass Finishing Shop right from 06.06.2006 and no staff of Brass Finishing Shop was there in this workshop so using the word Brass Finishing Shop frequently by the applicant is simply to mislead this Hon'ble Tribunal. It is further submitted that redeployed staff have been assigned bottom seniority as per the existing rules as given to the applicant himself as the applicant himself was redeployed by the order dated 04.03.2009. It has also been averred in the reply that the respondent No. 4 has given his option for the post of Crane Driver on the basis of options called by the administration under multi-skilling process and the applicant was also redeployed from Power Shop to that of Crane Driver and purely on bottom seniority as is done in the case of other employees, therefore, the applicant has no right to object for others. The applicant never objected the promotion of the respondent No. 4 till 23.07.2010, which was already made on 05.03.2008. According to the respondents, Power, AC, Train Lighting or Crane Driver cannot be merged under multi-skilling as averred by the applicant himself. The respondents have averred in the reply that office had not given any own seniority to the staff of Brass Finishing Shop after issue of Annex. A/5 and the name of the respondent No. 4 was included in the seniority as he was already working as Technician-I from March, 2008 whereas the applicant is still working as Technician-II, therefore, there cannot be a comparison between the staff of two different grades being an un-identical and no change of category from Fitter to Crane Driver has been taken place in the Electric Shop of the workshop. The respondents have averred that the applicant was repeatedly creating nuisance in the daily working, therefore, he was simply served with a warning not to intervene the work of multi-skilling which need the top

mediation to avoid any mistake and nothing adverse has been done against the applicant till date.

4. The applicant has filed rejoinder to the reply filed by respondent Nos. 1 to 3 reiterating the averments made in the OA.

5. Heard both the parties. Counsel for the applicant contended that vide Annexure-A/2, provisional seniority list, was issued by the respondent department and further it has been ordered in letter dated 15.7.2010 that wide publicity should be given to this provisional seniority list and if any person is having any objection regarding the provisional seniority list, then he can make representation within 10 days. When such representations were made, the respondent department issued Annexure-A/3, stating that in case correspondence is made regarding Annexure-A/2 the department shall take the action against them. The counsel for the applicant further contended that without finalization of the seniority list, the respondent department is making promotions from the provisional seniority list, therefore, the action of the respondents to promote the officials on the basis of Annexure-A/2 cannot be said to be legal. Counsel for the applicant further contended that the order at Annexure-A/1 also cannot be said to be legal because the respondent department have decided to issue the seniority list as per Annexure-A/2 on the basis of this order which is regarding multi skilling and multi trading

6. Counsel for the respondents contended that the respondent department issued letter Annexure-A/3 because the applicants were again and again filing representations; however, regarding this contention there is no material available on record to show that after receiving the representations from the concerned persons, the respondents have finalized the seniority list. Therefore, we are intending to dispose of this OA with certain directions.

7. Accordingly, the respondent department is directed to finalize the seniority list after considering the objections raised by the applicant in pursuance to the objection called vide Annexure-A/2, and the applicant may also represent the respondent department regarding the instructions/guidelines issued vide Annexure-A/1. The respondent department is further directed to finalize the representation submitted by the applicant within three months from the date of receipt of such representation and the applicant is also directed to submit their representation within 15 days from the date of receipt of a copy of this order. Meanwhile, the respondents are also directed not to act upon the provisional seniority list for further promotions, and if any promotions have been made by the respondents during the pendency of this OA, the same shall be subject to decision of the OA, if any filed by the applicant, for his grievances that remain after finalization of the representations.

8. Accordingly, the OA is disposed of as stated above with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

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