

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**Original Application No. 240/2010**

Jodhpur, this the 13<sup>th</sup> day of March, 2014

**CORAM**

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial)  
Hon'ble Ms Meenakshi Hooja, Member (Administrative)**

Altaf Ahmed s/o Shri Mohd Iqbal, aged about 41 years, r/o Bedil Manjil-Choongra, Bikaner, at present employed on the post of Hammer Man Grade-II (T.No.5214) in Railway Workshop, Bikaner.

.....Applicant

By Advocate: Mr J.K. Mishra

**Versus**

1. Union of India through General Manager, North Western Railway, HQ Office, Hasanpura Road, Jaipur
2. Chief Workshop Manager, North Western Railway, Railway Workshop, Bikaner.
3. Workshop Assistant Electrical Engineer, North Western Railway, Railway Workshop, Bikaner.
4. Raj Kumar, Elect Tech-II (AC Fitter) T.No.5316, through Workshop Assistant Electrical Engineer, North Western Railway, Railway Workshop, Bikaner.
5. Mangal Chand, Elect Tech-I (AC Fitter) T.No.5311 through Workshop Assistant Electrical Engineer, North Western Railway, Railway Workshop, Bikaner.

.....Respondents

By Advocate : Mr. Vinay Jain for resp. Nos. 1 to 3

**ORDER (Oral)**

The applicant by way of this OA prays for the following reliefs:-

- (i) That impugned orders dt. 11.12.2009 (Annexure A-1), seniority list for the post of Power Fitter Elect Cadre dated 15.7.2010 (Annexure A/2), may be declared illegal and the same may be quashed. The respondents may be directed to absorb the applicant in Power Elect Department

against vacant post and to prepare fresh seniority list after deleting the names of persons belonging to Surplus Brass Finishing Shop (erstwhile Mechanical Deptt) and also of Fitter Drivers not belonging to Power Group Elect Department and allow all consequential benefits to the applicants.

- (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 this application may be awarded.

2. Short facts of the case, as averred by the applicant, are that the applicant was initially appointed as Khallasi on 1.5.1987. He got his usual promotion and lastly promoted to the post of Technician Grade-II (H/Man-II) w.e.f. 21.4.2004. 20 persons were transferred from Brass Finishing Shop of Mechanical Branch to Electric Shop A/C Train Lighting vide letter dated 30.3.1996. They were ordered to be deployed in the new unit known as New Electrical Shop alongwith their original seniority. Thereafter 21 Electric staff were treated as surplus and were kept against supernumerary posts vide letter dated 23.9.2008 and some of them have been absorbed and some retired. The seniority lists were issued for various posts. The applicant belongs to Hammerman-II and a provisional seniority list was issued indicating seniority position as on 8.10.2008 in which name of the applicant is placed at Sl.No.4 on the post of Tech-II as Hammerman-II. It has been averred by the applicant that on one side about 11 surplus Electric staff are awaiting absorption, and on the other side, the Brass Finishing Staff of Mechanical Department are impliedly absorbed in Electrical Department along with their own seniority in the name of skilling and muti trading. The 3<sup>rd</sup> respondents has issued a combined seniority list of Power (Electric) cadre interpolating names of Brass Finishing Staff by giving them their own seniority vide letter dated 15.7.2010 against which the applicant represented to the respondent department. The applicant alleges that rule of bottom seniority on absorption of surplus staff has not been followed and instead of examining the points raised in the representations, the similarly situated persons

seniority on absorption of surplus staff has not been followed and instead of examining the points raised in the representations, the similarly situated persons have been issued warning letters dated 4.8.2010 stating that action has been taken as per orders of Headquarter and with the consent of the recognized unions, therefore, they should abstain from making correspondence, otherwise their action shall be termed as interference with the railway work and disciplinary action would be taken. Therefore, aggrieved with the action of the respondents, the applicants have filed this OA, praying for the relief as extracted above.

3. Respondent Nos. 1 to 3 have filed reply and submitted that right from 30.3.1996 to 6.6.2006, the staff of Brass Finishing Shop were being utilized as a separate unit, and they were not clubbed with the staff of the Electric Shop till 6.6.2006, as they were transferred from Brass Finishing Shop to New AC Shop with post. As far as promotion of respondent no.4 is concerned, after his redeployment in the Electric Branch, he remains no longer staff of Brass Finishing Shop from 6.6.2006. As far as seniority of the redeployed staff is concerned, it is submitted that they all have been assigned bottom seniority as per extant rules, since the applicant has got no relevancy with the other staff, therefore, he can not object, what others are doing. As far as Ann.A/1 is concerned, the respondent-department has acted strictly according to the spirit of the circulars issued by the Railway Board. The staff of Brass Finishing Shop who were working since 1996 in the Electric Shop but not given seniority in Electric Shop, rather they have been redeployed in the year 2006 and all have been assigned bottom seniority in Electric Shop from 2006. The respondents have further submitted that all the points which are being raised by the staff in general are kept in mind whenever any major change is likely to take place for the betterment of the staff in general. As far as the warning to the applicant is

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

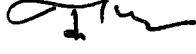
5. Heard both the parties. Counsel for the applicant contended that vide Annexure-A/2, provisional seniority list was issued by the respondent department and further it has been ordered in letter dated 15.7.2010 that wide publicity should be given to this provisional seniority list and, if any, person 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/12, 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/12 because the employees 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 his 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 the decision of the OA, if any filed by the applicant, for his grievances that remain after finalization of the representations.

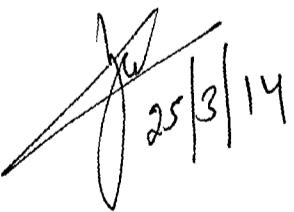
8. Accordingly, the OA is disposed of as stated above with no order as to costs.

  
(MEENAKSHI HOOJA)  
Administrative Member

  
(JUSTICE K.C.JOSHI)  
Judicial Member

R/rss

Recd.

  
25/3/14

  
25/3/14