

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 75/2011
With MA No.59/2011

Reserved on : 23.05.2016

Jodhpur, this the 31st day of May, 2016

CORAM

Hon'ble Mr. U.Sarathchandran, Judicial Member
Hon'ble Ms. Praveen Mahajan, Administrative Member

Ram Ratan Sharma s/o Shri Vidhya Shankar Sharma, aged about 59 years, r/o Bimal Bhawan Road, Sarvodya Basti, Lal Garh, Bikaner, Rajasthan. The applicant is presently holding the post of Fitter Grade-I in the office of Senior Section Engineer Works, North Western Railway, Lalgah, Bikaner.

.....Applicant

By Advocate: Mr.K.P.Singh, proxy counsel for Mr. Kuldeep Mathur

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur (Raj.).
2. The Divisional Railway Manager, North-Western Railway, Bikaner.
3. The General Manager, Northern Railway, Baroda House, New Delhi.
4. The Senior Section Engineer (Works), North-Western Railway, Lalgah, Bikaner Division, Bikaner.
5. Shri Hanuman Singh s/o Shri Jethmal, SSC (Works), Bikaner, North West Railways.
6. Shri Madan Singh s/o Shri Jeevan Singh, Master Crafts Man (MCM), Senior Section Engineer (Works), Suratgarh,

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7. Shri Rohtash s/o Shri Girdhari Lal, Master Crafts Man (MCM), Senior Section Engineer (Works), Rewari, North West Railways, Hariyana.

.....Respondents

By Advocate : Mr. Darshan Jain, proxy counsel for Mr. Vinay Jain
for respondent Nos. 1 to 4

None present for respondent Nos. 5 to 7

ORDER

Per Ms. Praveen Mahajan, Administrative Member

Considered the Misc. Application No.59/2011 and in the interest of justice, the same is allowed.

2. The OA has been preferred by the applicant against the inaction of the respondents in grant of promotion to him on the post of MCM. The case of the applicant is that the persons junior to him have been granted the post of MCM ignoring his claim. He has, therefore, prayed that:-

(i) The respondents may be directed to grant promotion to the applicant on the post of MCM/Sr. Technician in the Grade of Rs. 9300-34800 + 4200 from the date his Juniors have been promoted on the post with all consequential benefits .

(ii) Any other relief, which this Hon'ble Tribunal deems fit and proper in favour of the applicant may be granted. The Original Applicant may kindly be allowed with costs and all circumstantial benefits may be granted in favour of the applicant.

3. Brief facts of the case, as submitted by the applicant, are that

he was appointed to the post of Khalasi in the respondent

pay scale of Rs. 260-400 on 26.8.1986, after successfully passing the trade test conducted by the Department on 22.7.1986. The applicant got further promotions to the post of Fitter Gr.II and subsequently, to the post of Fitter Gr.I on 26.6.1998 and 1.11.2003, respectively. It has been alleged that the respondents have promoted the respondent Nos. 5,6 & 7 to the post of MCM (Senior Technician) ignoring the just candidature of the applicant, who is senior to them.

4. Heard both sides and perused the record.

5. The learned counsel for the applicant stated that the private respondents namely Shri Madan Singh (respondent No.6) and Shri Rohatash (respondent No.7) were promoted to the post of Fitter Gr.III on 16.4.1987 and 10.11.1986, respectively. Since the applicant was promoted to the post of Fitter Gr.III on 26.8.1986, he was senior to both of them and hence, eligible to be promoted before the above mentioned respondents. The applicant has further stated that one Shri Hanuman Singh (respondent No.5) was promoted as MCM on 28.05.2007, ignoring the applicant, though he was junior to the applicant. It was further submitted that Shri Hanuman Singh passed his trade test for Fitter Gr.III on 27.10.1988 i.e. more than 2 years' after the applicant and hence he was junior to the applicant, who had passed the trade test on 22.7.1986. Shri

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... Singh as well as Shri Madan Singh and Shri Rohatash

have been given undue benefit by ignoring the seniority of the applicant.

The representations were preferred by the applicant on 20.9.2010 (Ann.A/4) and 28.11.2010 (Ann.A/5) bringing the entire facts to the notice of the respondent department. His grievance has, however, yielded no positive result.

6. Replying the averments made in the OA, the learned counsel for the official respondents has stated that trade test alone is not the sole criteria to assign seniority to an employee for the purpose of promotion. He drew our attention to a comparative chart (page 2 of the reply) giving dates when Shri Madan Singh and Rohatash were granted promotion to the grade of Fitter Gr.III alongwith the dates of their regularisation. The comparative chart indicates as under:-

	<u>Shri Madan Singh</u>	<u>Shri Rohatash</u>	<u>Shri Ram Ratan</u>
Fitter Grade-III CPC (260-400)	18.06.1981	01.09.1979	26.08.1986
TLA (260-400)	15.04.1983	-	-
Regularised on	16.04.1987	10.11.10986	05.01.1995

From the aforementioned chart, it becomes apparent that the date of regularisation of the applicant in Fitter Gr.III is subsequent to dates of regularisation of Shri Madan Singh and Shri Rohatash, by virtue of which, he became junior to respondent

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promotions are given on the basis of inter-se seniority of Fitter Grade-II, which is prepared on the basis of regularisation in Fitter Grade-III.

The learned counsel submitted that the representations of the applicant were replied to, vide letter dated 15.11.2010, after detailed examination (Ann.R/1). This letter deals with promotion and posting of Artisan Staff (Ann.R/2) as well as comparative position of Shri Hanuman Singh vis-a-vis the applicant. The applicant was regularised in Fitter Gr.III scale on 05.01.1995 while Shri Hanuman Singh was regularised in Fitter Gr.III, scale Rs. 260-400 on 23.7.1992, against 25% Artisan Quota, making him senior to the applicant. In view of all the facts stated above, the applicant is junior to all these employees viz. respondent Nos. 5,6 & 7 named in the OA. The learned counsel for the respondents also submitted that seniority lists are published by the department from time to time, which have never been challenged by the applicant. Had he been aggrieved by his alleged wrong placement, he was free to bring it to the notice of the competent authority for rectification, at that point of time, rather than bringing it up at this belated stage.

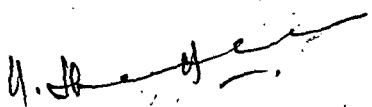
Dahajan 7. We have gone through the facts of the case. After going through the pleadings and material on record, we have come to

Shri Rohstash and Shri Hanuman Singh. The services of all the above mentioned respondents were regularised prior to the date, when the applicant got regularised as Fitter Gr.III. Also, the seniority, made long back cannot now be challenged by the applicant. It has been held in various cases, by the Hon'ble Apex Court that if the seniority list is not challenged within a reasonable time of 3-4 years, the claim cannot be entertained.

7. Hence, we find that the OA lacks merit and it is accordingly dismissed. No costs.


(PRAVEEN MAHAJAN)
Administrative Member

R/


(U.SARATHCHANDRAN)
Judicial Member