

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

O.A. No.173 of 1997

Present : Hon'ble Mr.Justice G.L. Gupta, Vice-Chairman
Hon'ble Mr. S. Biswas, Administrative Member

1. Sukamal Dey, S/o Sri Santosh Kr. Dey
2. Gautam Dey, S/o Late Gaurpada Dey
3. Gautam Biswas, S/o Late P.N. Biswas
4. Binod Behari Sarkar, S/o Late Banomali Sarkar

All working as Accounts Clerk Gr.I

... Applicants

VS

1. Union of India, service through the Chairman, Railway Recruitment Board, MM Building, 4th Floor, 16, Strand Road, Calcutta-1
2. General Manager, South Eastern Railway Garden Reach, Calcutta
3. Financial Adviser & Chief Accounts Officer (Admn.), South Eastern Railway, Garden Reach, Calcutta-43
4. Senior Divisional Accounts Officer, South Eastern Railway, Bilaspur (M.P.)
5. Divisional Accounts Officer, South Eastern Railway, Sambalpur, Orissa

... Respondents

For the Applicant : Mr. P. C. Das, counsel

For the Respondents: Mr. R. K. De, counsel for RRB,

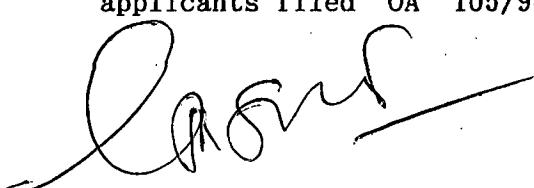
Mr. S. Choudhury, counsel for S.E. Rly.

: : Date of order: 15-02-2002

O R D E R

Per Mr. Justice G. L. Gupta,

Pursuant to the advertisement made by the Railway Service Commission now known as Railway Recruitment Board (RRB), Calcutta under Employment Notice No. RSC/CAL/EN-1/85, the applicants applied for the post of Accounts Clerk Gr.I. Written test and interview were to be held. The applicants applied for the post. After they succeeded in the written examination, they were called for interview. However, they were held to be unqualified in the interview. Being aggrieved by the action of the RRB, the applicants filed OA 105/94 (Utpal Kanti Ray & Ors. vs.



UOI&Ors). The said OA was disposed of by this Tribunal vide order dated 16.9.94 directing the RRB to issue necessary orders of appointment on the applicants after observing all the formalities. The RRB implemented the said order and the applicants were given appointment in the S.E. Railway on the posts of Accounts Clerk Gr.I on different dates in the year of 1994. The applicants thereafter made representations to the respondent authorities to fix their appropriate seniority as it was not their fault that they were not appointed for seven years. One similarly situated candidate, Chitralekha Chakraborty filed OA 830/91 which was decided by this Tribunal on 8.1.96 in which it was directed that the respondents should assign her appropriate inter se seniority. Thereafter, the applicants also made representations through their advocate on 14.1.97 for assignment of proper seniority to them, but no action was taken. Hence this OA.

2. In the reply filed by the S.E. Railway and its officers it has been stated that the written examination and the interview were held by the RRB and the seniority of the applicants has been fixed from the date of joining in view of para 302 of the Indian Railway Establishment Manual, Vol.I.

3. In the reply filed by the Railway Recruitment Board, it has been stated that the appointments to the applicants have been given pursuant to the direction of the Tribunal and the applicants are entitled to have seniority only from the date of appointment. It has also been stated that the case is barred by limitation.

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



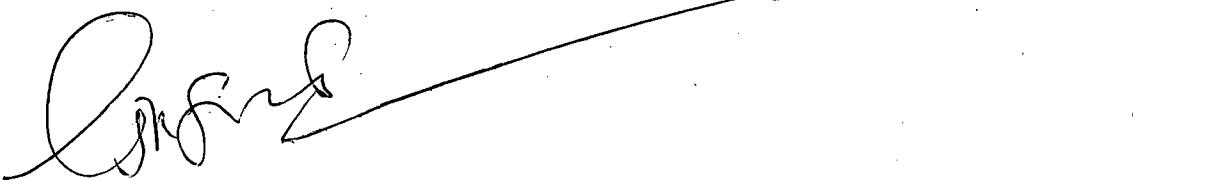
5. The contention of the learned counsel for the applicants was that in the matter of similarly situated persons the Tribunal has directed the respondents to assign specific position in the seniority list within fixed time limit. He has placed on record a copy of the order dated 21.12.01 passed in the case of Satrugna Prasad Tiwari & Ors. (OA 88/1998 & OA 960/2000).

6. Mr. R.K. De, learned counsel for the respondents, on the other hand, pointed out that the Tribunal in its order dated 5.3.93 in the case of Kamalesh Singh & ors. (CCP 86/92, OA 837/89) has directed the respondents to fix the seniority of the applicants from the date of joining. His further contention was that the application is barred by limitation.

7. We have given the matter our thoughtful consideration. The matter of fixation of proper seniority of the similarly situated persons is pending with the Railway authorities. The case of the applicants, therefore, cannot be dismissed on the specious plea of limitation. In the situation where there is a dispute with regard to the fixation of the seniority in respect of the number of persons and the respondents are yet to comply with the directions given by the Tribunal in other OAs filed by the similarly situated persons, the application cannot be dismissed on the plea of limitation.

8. In the Railway Board's letter dated 17.2.86, it was directed that the candidates on their appointment shall be provided appropriate position in the panel. It is profitable to reproduce hereunder the relevant portion of the Railway Board's letter dated 17.2.86:

"Out of these 3,500 candidates, those who have secured higher marks than these top 1,000 candidates but who are suspected of having indulged in malpractices and whose names have hence not been included in the panel, should be issued a notice by Registered Post on the lines



of the draft show-cause enclosed. Should any of these candidates appeal, the appeal should be given careful consideration and should, on consideration of the appeal(s), it be found that the appeal(s) should be upheld and the candidature restored, the names of those candidates who have succeeded in their appeal should be interpolated in the appropriate place in the panel."

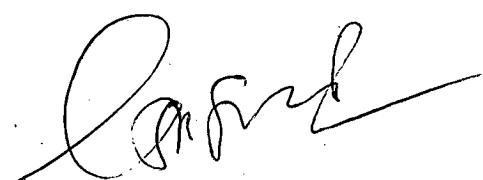
(emphasis supplied)

It is obvious that the Railway Board had given clear direction to the RRB that the name of the candidates must be interpolated at appropriate place in the panel. The appropriate place obviously means the placement on the basis the marks obtained by various candidates. The respondents are duty bound to place the applicant at the appropriate place in the panel as directed by the Railway Board.

9. In the matter Chitralekha Chakraborty (supra) this Court had clearly directed that the relative position of the applicant in the panel shall be ascribed keeping in view her aggregate marks and the relative aggregate marks of other candidates already appointed from the said panel. In the case of Satrugna Prasad Tiwary also identical directions were given. In our opinion similar order is required to be passed in this case.

As to the case of Kamlesh Singh relied on by the respondents' counsel, it may be stated that it does not contain reasons of giving directions for the fixation of seniority. The decision in the case of Chitralekha Chakraborty is well considered, which was followed in the case of Satrugna Prasad Tiwary. The case, therefore, cannot be decided on the basis of short order passed in the case of Kamlesh Singh.

10. Consequently, the OA is allowed. The respondents are directed to fix the specific position of the applicants in the panel for the purpose of determination of the interse seniority amongst those appointed from the said panel. The relative



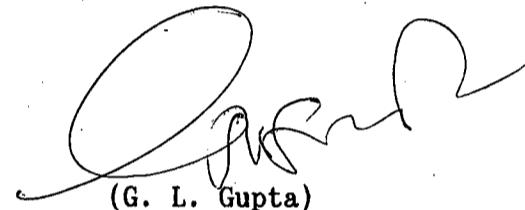
position of the applicants in such panel shall be ascribed keeping in view the aggregate marks obtained by the applicants and the relative aggregate marks of the applicants already appointed from the said panel.

11. It is further directed that the respondents shall ascribe the specific position as indicated above, to all the candidates who had been given appointment pursuant to the decision of this Tribunal dated 13.10.88, even if any of them has not approached this Tribunal. This exercise should be completed within three months from the date of the communication of this order.

12. No order as to costs.

S. Biswas
(S. Biswas)

MEMBER (A)


(G. L. Gupta)

VICE-CHAIRMAN