

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**

ORIGINAL APPLICATION NO 203/1997

Date of order: 09.05.2005

CORAM:

**HON'BLE MR. J. K. KAUSHIK, JUDICIAL MEMBER.
HON'BLE MR. A.K. BHATT, ADMINISTRATIVE MEMBER.**

1. Srimati Shefali Sengupta, Wife of Shri T. Sengupta, working as Hd. Clerk in S.E. Rly. Under C.O.S. residing at A-27, L.N. Colony, Calcutta-700 047.
2. Prabir Kumar Nath, son of Late Hiralal Nath, working as Head Clerk, under Controller of Stores, S.E. Railway, Garden Reach, Calcutta, residing at 59/1, Arya Vidyalaya Road, Haltu, Calcutta-700 078.
3. Apurba Kumar Mukherjee, son of Shri N.B. Mukherjee, working as Sr. Clerk in S.E. Rly. Under Controller of Stores, Garden Reach, Calcutta, residing at Rainagar, Diamond Harbour, 24 Pgs (S).
4. Kumari Khama Banerjee, daughter of Shri D. Banerjee, working as Peon in the office of C.O.S., S.E. Railway, Garden Reach, Calcutta, residing at P/17, Beliaghata Road, Calcutta-85.

...Applicants.

[Rep. by Mr. S.K. Dutta, advocate for applicants]

V E R S U S

1. Union of India, service through the Secretary, Ministry of Railway, Rail Bhavan, New Delhi.
2. Railway Board, service through the Chairman, Railway Board, Rail Bhavan, New Delhi.
3. General Manager, South Eastern Railway, Garden Reach, Calcutta.
4. Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta.
5. Controller of Stores, South Eastern Railway, Garden Reach, Calcutta.
6. Directorate General of Supplies & Disposal, Govt. of India, Admn. Sec. A-1, Jeevantara Bldgs., Sansad Marg, New Delhi-1.

...Respondents.

[Rep. by Mr. S Chaudhary, Advocate for respondents]

ORDER**Per Mr. J.K. Kaushik, Judicial Member**

Smt. Sefali Sen Gupta and three others have filed this Original Application primarily for assignment the due seniority as per the decision of the Railway Board contained in Annexure C and order of absorption in Annexure D with all promotional benefits with retrospective date including the arrears thereof etc.

2. We have heard both the learned counsel for the parties and have very carefully perused the records of this case. The factual aspect of the matter of this case is in a narrow compass. The applicants No. 1 to 3 were initially employed on the post of LDC in DGS &D Calcutta on various dates. The applicant No. 1 and 2 were further promoted as UDC in DGS&D. The applicant No. 4 was holding the post of Peon in the said department. Their services were being utilized in purchase department for procurement against the ad hoc indents of the indenting Ministries/Departments. Decision was taken by the Central Government that the work relating to procurement could be transferred to the concerned department and in this view, the applicants were transferred vide 08.04.1992 to the General Manager of Eastern Railway. S.E. Railway, C.L.W. and Metro Railway. Their services have been placed under the disposal of the Controller of Stores, S.E. Rly. Garden in their existing

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capacity, pay and grade with effect from 24.04.1992. They have been transferred along with posts and they continue to discharge duties and functions under the Railways. The Railway Board has issued an order dated 18.10.1994 regarding the absorbed persons who came to be transferred from DGS&D staff to zonal Railways wherein it has been provided that the employee may be absorbed in the Railway to which they have been transferred and assigned seniority on the basis of date of their regular promotion/appointment in DGS&D in relevant grade. They were finally absorbed vide letter dated 10.02.1995 but seniority in accordance with the aforesaid order has not been assigned to the applicants. They have, therefore, made several verbal representations but to no avail. They submitted a joint representation to the authorities for promotion retrospectively but no steps have been taken by the authorities and thus, there has been a clear violation of the orders of very Railway Board itself. The Original applicant has been filed on multiple grounds and in Para 5 and its sub paras thereof.

3. The respondents have contested this case and have filed an exhaustive reply. It has been submitted that it is not a fact that the seniority of DCS&D staff that have been transferred, have not been restored. In this connection Annexure R-I has been issued. The seniority of such staff shall be fixed from the date of their regular promotion/appointment in DCS&D as per decision of the Railway Board. Accordingly, their seniority have been fixed

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and necessary order to that effect were issued, duly incorporating therein the regular date of promotion of the concerned staff in the respective grades. The applicant No. 4 has also been called for further promotion to appear in the suitability tests. The other contentions have been denied and it has been averred that the revised seniority, duly following the extent Railway policy, was published on the basis of seniority as per the circular issued by the R/Bd. As per the position in the seniority list the suitability test of O.S. Grade I has been conducted and the eligible candidates have called for the same and a copy of the same has been annexed with the reply.

4. Both the learned counsel for the parties have reiterated the facts and grounds raised in their respective pleadings. We find that even though in the reply, it has been mentioned that the revised seniority list has been placed on records but no seniority as such has been placed on records and it is not possible for us to ascertain the position as to whether the applicants have been assigned the correct seniority or not. However, we can only assert that both the parties agreed that the seniority is to be assigned as per the Railway Board Circular dated 18.10.1994 wherein it has been provided that the employee may be absorbed in the Railway to which they have been transferred and assigned seniority on the basis of date of their regular promotion/appointment in DGS&D in relevant grade.

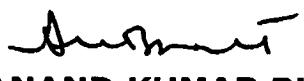
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5. We find that there is hardly any dispute requiring adjudication and as a matter of fact, the total case is regarding the implementation of the orders of the Railway Board. The respondents also do not dispute this position. The claim of the applicant is that they have not been extended the due benefits but the respondents say that they have extended the due benefits. From the records, the respondents seems to have withheld the information inasmuch as they have not furnished the copy of the seniority lists, which could have unfold the complete picture. It cannot with certainty be said that respondents have been extended the said benefits. Incidentally, the respondents have even not mentioned as to what position has been assigned to the applicants in the seniority lists, which is said to have been issued by them. In this view of the matter, we cannot infer that the applicants have been given their due benefits. This is also so because neither their positions have been reflected nor any order of promotion or giving them benefits have been disclosed.

6. In this view of what has been said and discussed above, this Original Application is allowed with a direction to the respondents to grant them their due seniority from the date of their appointment on their respective posts in DGS&D prior to their transfers to the present organization and they shall also be entitled to the benefits of next below rule with all consequential



benefits except any arrear that may be payable shall be restricted to from the date of filing of this Original Application. However, in case the applicants have already been granted the due benefits, the details of the same shall be furnished to the applicants. This order shall be complied with a period of three months from the date of the receipt of a copy of this order. However, there shall be nor order as to costs.


(ANAND KUMAR BHATT)
ADMINISTRATIVE MEMBER

LG


(J.K. KAUSHIK)
JUDICIAL MEMBER