

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 537/92

December

Tuesday, this the 14th day of 1993

Shri N.Dharmadan, Judicial Member

Shri S.Kasipandian, Administrative Member

Shri P.Kumaran,
Pointsman 'A'
Railway Station,
Podanur.

..... Applicant

By Advocate Shri P.Sivan Pillai

Versus

1. Union of India through
The General Manager,
Southern Railway,
Madras-3.
2. The Senior Divisional Personnel
Officer,
Southern Railway,
Palghat.

By Advocate Shri Mr. T.A.Rajan

O R D E R

N.Dharmadan, JM

The applicant, who has been working as Pointsman 'A' in the Southern Railway, is challenging the seniority list (Annexure A2) of Pointsman 'A' in the scale of Rs 950-1500 and Annexure-A2) of Pointsman 'A' in the scale of Rs 950-1500 and Annexure-A4 order by which some of his juniors have been promoted as Shunting Jamadars disregarding the legitimate seniority of the applicant shown in Annexure-A1.

2. The applicant submitted that he was posted as Traffic Porter in the Railway on 17.2.68 and he was given further promotion as Pointsman 'B' in the scale Rs 200-250 on 13.6.79. From 5.3.82 he was posted as GK/Pointsman 'A' in the scale of Rs 210-270. Thereafter, due to upgradation of Pointsman 'A' post from scale Rs 210-270 to Rs 260-400, the applicant was given the scale Rs 260-400 (Rs 950-1500 revised) with effect from 1.8.82. At that time several seniority lists of Pointsmen were issued and the applicant produced Ann.A1

seniority list of Pointsman in the revised scale of Rs 950-1500 as on 1.11.90. In that seniority list the applicant is at Sl. No.181. It shows the date of his joining in that post as 5.3.82. The next promotion of the applicant is as Shunting Jamadar in the scale of Rs 1300-1800 (revised). While the applicant was expecting a promotion on the basis of Annexure-A1 seniority list, a revised provisional combined seniority list of Pointsman 'A'/Levelman-I/Cabinman-I/Senior Gatekeeper in the scale of Rs 950-1500 was issued in which the applicant's seniority has been changed from 181 to 185 altering his date of entry in the grade. Immediately after the Ann.A2, by a subsequent proceedings dated 18/19.3.92 (Ann.A4) some of the juniors of the applicant have been promoted as Shunting Jamadars. Under these circumstances, he has filed this application with the following prayers:

- "(a) To call for the records leading to the issue of A2 and A4 and quash the same.
- (b) To direct the respondents to assign seniority in the post of Pointsman 'A' on the basis of the date of entry into that grade and hold the selection to the post of Shunting Jamadar on the basis of that seniority.
- (c) To issue such other order or direction as deemed fit and necessary by the Hon'ble Tribunal in the facts and circumstances of the case."

3. The respondents have filed a detailed reply denying the averments in the OA. In the rejoinder filed by the applicant he has denied the statements in the reply. Ann.A2 is only a provisional seniority list. The covering letter shows that representations from the employees have been called for if they have any grievance against the assignment of seniority so as to consider the same while finalising the seniority list. Accordingly the applicant submitted his objections to Ann.A2 provisional seniority list within the time, but before finalising the same Ann.A4 proceedings were issued promoting the juniors of the applicant as Shunting

Jamadars. Hence the applicant is aggrieved. If the promotion orders were issued after considering the objections and following correct procedure the applicant would not have approached the Tribunal.

4. The applicant has a further case that the principle followed for altering his seniority from Ann.A1 cannot be sustained in the light of the accepted formula and principles laid down by the Tribunal. Hence both Annexures A2 and A4 are liable to be set aside.

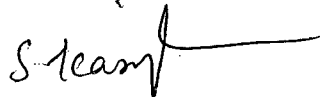
5. While admitting the application on 8.4.92 this Tribunal passed an interim order, making it clear that the selection and appointment to the post of Shunting Jamadar (Ann.A4) will be provisional and subject to the outcome of the O.A. Accordingly, the promotions made as per Ann.A4 cannot be treated as final and conclusive.

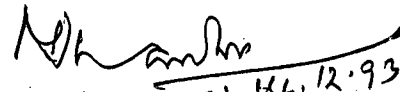
6. Having regard to the fact that the seniority position of Pointsmen as shown in Ann.A2 was not final and that the representation against the assignment of seniority would be entertained, it is incumbent upon the Senior D.P.O. to consider and pass final orders giving the correct position of the seniority of the applicant and others who have objected the same before making further promotions. This was not done. The respondents have no case that the seniority list Ann.A2 has been finalised after considering the objections filed in this behalf ~~including~~ including the objection filed by the applicant.

7. Since the applicant had already filed his objections to Ann.A2 and also raised various contentions in the OA against the provisional seniority list, we are satisfied that it would only do justice if the application is disposed of with appropriate

directions.at this stage. The learned counsel for the applicant also requested that his client may be permitted to file additional objections supplementing the earlier objections already filed against Ann.A2. Since ~~at~~ no final decision was taken on his objections there is nothing wrong in permitting the applicant to submit additional objections.

8. Under these circumstances, we permit the applicant to file his supplementary objection ^{before} ~~the~~ the second respondent who may place it before the 1st respondent. The applicant shall file the same within a period of 3 weeks from the date of receipt of a copy of this judgement and the 2nd respondent shall place it before the 1st respondent for consideration within two weeks from the date of receipt of the same. If the 1st respondent receives a copy of the objections, he shall dispose of the same along with the original objections filed by the applicant against the Ann.A2 in accordance with law within a period of six months from the date of receipt of the same. We also make it clear that the interim order passed in this case will continue till finalisation of the seniority list of Pointsman. It goes without ^{saying} ~~saying~~ that the first respondent ^{can} ~~can~~ issue consequential order based on the seniority position of the applicant, on the basis of the ^{will be issued} ~~will be issued~~ final seniority list that ^{will be issued} ~~will be issued~~ in compliance of the above direction. No order as to costs.


(S. Kasipandian)
Member (A)


(N. Dharmadan) 14.12.93
Member (J)

14.12.93