

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 295 of 2005

This the 22nd day of August, 2012

Hon'ble Mr. Justice Alok K Singh, Member-J

Hon'ble Mr. S.P. Singh, Member-A

S.C. Kapoor, S/o late M.M. Kapoor, aged about 54 years, R/o E/1/163 Sector H, LDA colony, Kanpur Road, Lucknow.

1/1. Smt. Kamla Kapoor, aged about 51 years, W/o late S.C. Kapoor.

1/2 Km. Vidhi Kapoor, aged about 21 years, D/o late S.C. Kapoor

Both residents are E/1/163 Sector H, LDA colony, Kanpur Road, Lucknow

.....Applicants

By Advocate : Sri Manish Mishra

Versus.

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. The Divisional Personnel Officer, N.R. Divisional Railway Office, Hazratganj, Lucknow.
4. Sri R.D. Singh, S/o Sri Barahoo Singh, presently posted at Diesel Shed, Alambagh, Lucknow.
5. Yaspal Singh, S/o Sri Udayapal Singh, presently posted at Diesel Shed, Alambagh, Lucknow.
6. Suraj Prakash, S/o Sri Rameshwar Prakash, presently posted at Diesel Shed Alambagh, Lucknow.
7. Taufiq Ahmad, presently posted at MPI, Charbagh, Lucknow.
8. K.K. Gupta, presently posted at MPI, Charbagh, Lucknow.
9. Shishu Pal Singh, presently posted at MPI Charbagh, Lucknow.

.....Respondents.

By Advocate :S/Sri B.B. Tripathi & Praveen Kumar

O R D E R (Oral)

By Justice Alok K Singh, Member-J

Heard the learned counsel for the parties and perused the material on record.



2. Unfortunately, the original applicant of this O.A. namely late S.C. Kapoor has expired during the pendency of this O.A. His two heirs/legal representatives have stepped into his shoes being widow and daughter. This O.A. was filed for seeking directions to the official respondents to fix correct seniority in accordance with the judgment dated 8.5.2000 in O.A. no. 104 of 1992 and to provide service benefits of promotion to the applicant from the date his juniors were promoted.

3. Concededly, earlier O.A. no. 104 of 1992 was between three applicants namely S/Sri R.D. Singh (R-4 in this O.A.), Yashpal Singh (R-5 in this O.A.) and Suraj Prakash Singh (R-6 in this O.A.) and private respondents namely Mohd. Anis, S.C. Kapoor (original applicant of this O.A.), Taufiq Ahmad and K.K. Gupta & three official respondents. The applicants of the above O.A. were claiming seniority and certain other relief(s) on the basis of seniority. This Tribunal found that the official respondents had published a seniority list which was subsequently changed in pursuance of a decision taken in the PNM which is indicative of the fact that the official respondents had taken a decision only after consulting the staff union and their action had no flaw. Finally, therefore, the O.A. was dismissed.

4. It comes out from record that initially the original applicant of this O.A. as well as private respondent nos. 4 to 6 were recruited as Skilled staff in MPI Section, which in due course of time was declared as sinking cadre and, therefore, options were called for. In response to that, the original applicant of this O.A. as well as the above private respondents submitted their options. After considering their options between 1993-1995 the applicant was allocated/posted in Mechanical branch; whereas Sri R.D. Singh (R-4) was allocated/posted in Electrical branch and rest of the two private respondents i.e. S/Sri Yashpal Singh (R-5) and Suraj Prakash Singh (R-6) remained in Machine Plant Inspector (MPI) itself. These uncontroverted averments have been specifically made in Counter Reply & Supplementary Counter Reply of Official Respondents as well as Counter Reply of Official Respondents. Similarly, it has also been averred in the Counter Reply that

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after the above allocation, there remains no nexus with the seniority position of each other because all the three units have separate seniority position. These specific averments also do not appear to have been controverted or refuted by the applicant. Further, whatever has been said in response to the above averments made in the Rejoinder Reply have been further denied by the official respondents by filing Supplementary Counter Reply by mentioning specific documents in respect of options and allocations mentioned above.


5. Without entering into the merits of the case anymore, we find that two representations dated 17.2.2004 and 28.3.2005 (Annexure nos. 3 & 4) submitted by the original applicant to the official respondents are still pending. It appears that without waiting the outcome of those representations, in the month of June, 2005 this O.A. was filed seeking the aforementioned relief(s) and the official respondents probably could not pass any orders on account of matter having become sub-judice.

6. In view of the aforesaid facts and circumstances and keeping in view that the original applicant has unfortunately died while in service, it would meet the ends of justice to direct the applicant to file readable copy of above mentioned representations alongwith fresh representation, if any, on behalf of present applicants (widow and daughter) to the officials respondents within 2 weeks from the date of this order and the official respondents shall decide the same sympathetically by passing a well reasoned and speaking order within a period of three months from the date of receipt of such representation/application and accordingly it is so ordered.

7. The O.A. stands disposed of in the above terms with no order as to costs.


(S.P. Singh)
Member-A

Girish/-


(Justice Alok K. Singh)
Member-J 22.8.12