CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

Original Application Nos. 155 of 2009,153 of 2011,155 of 2011,158 of 2011,159 of 2011,163 of 2011,164 of 2011,165 of 2011,166 of 2011,168 of 2011,169 of 2011,171 of 2011,173 of 2011,183 of 2011,184 of 2011,186 of 2011,187 of 2011,190 of 2011,192 of 2011,198 of 2011.

ORDER RESERVED ON 30.6.2014

ORDER PRONOUNCED ON 14-07-2014

HON'BLE MR. NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER(A)

O.A. 155 of 2009

Vikram Singh, aged about 48 years, S/o Shri Bajrangi Singh, resident of C/o Dy. CEE(W), C&W Workshop Alambagh, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri B.B. Tripathi.

O.A. 153/2011

Shri Ram Bharti, aged about 49 years, s/o Shri Ram Bharose, Resident of 545/A-103, Laxman Bihar, Para Road, Rajajipuram, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri S. Verma.

O.A. 155 of 2011

C.M.B. Bhandari, aged about 51 years, S/o Late Shri Nain Singh, Resident of -556/55, Sujanpura, Alambagh, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri B.B. Tripathi

O.A. 158 of 2011

Shyam Kumar, aged about 48 years, S/o Late Shri Nand Lal, Resident of 547/183, Jalalpur Kuti, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri S. Verma

O.A. 159 of 2011

Brij Kishore, aged abut 46 years, S/o Late Shri Charan, Reident of 554/234, Chhota Barha, Alambagh, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri Deepak Shukla for Shri D. B. Singh.

O.A. 163 of 2011

Chandra Bali, aged about 56 years, s/o Late Shri Shyam Lal, Resident of 548/437, Surya Nagar, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri Deepak Shukla for Shri D. B. Singh.

O.A. 164 of 2011

Alim Ali Mirza, aged about 51 years, s/o Shri Sikander Mirza, Resident of 1, Langarkhana, Hussainbad Road, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri Rajendra Singh.

O.A. 165 of 2011

Gaya Prasad, aged about 55 years, S/o Late Shri Mohan, Resident of Village Mughlapura, Malihabad, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri Rajendra Singh.

O.A. 166 of 2011

Ram Singh, aged about 45 years, S/o Shri Kushher Dass, Reisdent of 569 Gha/47, Balidikhera, Lucknow.t

Applicant

By Advocate Shri Praveen Kumar.

Versus

The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri Rajendra Singh.

O.A. 168 of 2011

Om Prakash, aged about 46 years, S/o Late Shri Achchan Khan, Resident of –I-150/H, Dhobi Gaht NR Colony, Alambagh, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri Deepak Shukla for Shri D. B. Singh.

O.A. 169 of 2011

Sunil Kumar, aged about 47 years, S/o Late Shri Mangal Prasad, Resident of -420/18, Chaupatia, Katra Mohammad Ali Khan, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri Deepak Shukla for Shri D. B. Singh.

O.A. 171 of 2011

Ram Adhar, aged abnout 59 years, S/o Late Shri Medi Lal, Reisent of 551 Gha/89, Natkhera Road, Alambagh, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri B.B. Tripathi.

O.A. 173 of 2011

Shakil Khan, aged about 46 years, jS/o Late Shri Shiv Charan, Resident of 554/234, Chhota Barha, Alambagh, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.

2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri Rajendra Singh.

O.A. 183 of 2011

Anil Kumar, aged about 51 years, S/o Late Shri Manhgu Ram, Resident of 210, Naya Gaon, Buswali Tola, Allahabad.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy .Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri B. K. Singh for Shri M. K. Singh.

O.A. 184 of 2011

Phool Chandra Vishwakarma, aged about 54 years, S/o Late Shri Ram Lal Vishwakarma, Resident of 555 K/O-154, Osho Nagar, Manak Nagar, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri S. Verma.

O.A. 186 of 2011

Ramchandra, aged about 52 years, S/o Late Shri Vishwanath, Resident of 113-A, Mundera Gaon, Post-Namisarai, Allahabad.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri B. K. Singh for Shri M. K. Singh.

O.A. 187 of 2011

Munni Lal, aged about 53 years, S/o Late Shri Maiku Lal, Resident of 445/05, Mallahitola, Mushhabganj, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri Rajendra

O.A. 190 of 2011

Putan Singh, aged about 50 years, S/o Late Shri Mathura Prasad, Resident of Gram-Kanchanpur, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri B. B. Tripathi.

O.A. 192 of 2011

P. B. Nigam, aged about 49 years, S/o Shri C. B. Nigam, Resident of 337/29, Manssor Nagar, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri B. K. Singh for Shri M. K. Singh.

O.A. 198 of 2011

Kanhiya Lal, aged abu 48 years, S/o Late Shri Mohan, Resident of -281/259, Mawaiya, Alambagh, Lucknow.

Applicant

By Advocate Shri Praveen Kumar.

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Deputy Chief Electrical Engineer (W), C&W Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Shri B. K. Singh for Shri M. K. Singh.

ORDER

By Hon'ble Mr. Navneet Kumar, Member (J)

The Original Applications are preferred under Section 19 of the AT Act, 1985 with the following reliefs:-

"1. To quash the impugned order dated 26.5.2010 contained as Annexure No. A-1-A to this O.A.

2. To upgrade the applicant on the post of Technician Grade-II in grade Rs. 4000-6000 with effect from 01.11.2003 in terms of aforesaid Restructuring Scheme dated 9.10.2003 read with clarification issued by Railway Board on

23.07.2004 with all consequential benefits while extending the judgment rendered in the matter of Shambhoo Prasad versus Union of India.

3. To fill up the chain/resultant vacancies as per directions issued vide clarification order dated 23.07.2004 with effect from 01.11.2003 with all consequential benefits.
4. To grant arrears of pay etc., fixation and seniority etc. on account of release of aforesaid benefits as prayed for in prayer No. 1,2 and 3.
5. Any other relief, which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case, may also be passed.
6. Cost of the present case."

2. In all the O.As mentioned above, the issue involved is the common and they are heard together but the relief claimed in O.A No. 155 of 2009 is as under:-

"1. To quash the impugned order dated 13.01.2009 contained as Annexure No. A-1-A to this O.A.

2. To upgrade the applicant on the post of Technician Grade-III in grade Rs. 4000-6000 with effect from 01.1.2003 in terms of aforesaid Restructuring Scheme dated 9.10.2003 read with clarification issued by Railway Board on 23.07.2004 with all consequential benefits
3. To fill up the chain/resultant vacancies as per directions issued vide clarification order dated 23.07.2004 with effect from 01.11.2003 with all consequential benefits.
4. To grant arrears of pay etc., fixation and seniority etc. on account of release of aforesaid benefits as prayed for in prayer No. 1 and 2.
5. Any other relief, which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case, may also be passed.
6. Cost of the present case."

3. The brief facts of the case are that the applicants are working as Train Lighting Grade I on the post of Technician -II in the Electrical Shop of C&W. In the year 2002, the matter regarding assignment of seniority of the Mechanical staff in the electrical wing was taken up. The said proposed action was vehemently opposed by the affected staff and the unions. The applicants subsequently came to know that the respondents were planning to merge the seniority of the machinist trade with the AC staff even though the Machinist trade staff had been termed as

surplus staff. Some employees submitted representations, but without taking into consideration, the objections and representations submitted by the staff, the combined seniority list dated 31.7.2003 was circulated on behalf of Respondent No. 2, wherein a merged seniority list of Technician Trade III (WTL) was circulated. Subsequently, the representations of the applicants were rejected and the OAs were filed by some employees. It is further stated by the learned counsel for the applicant that the seniority list of both the wings are separate and distinct and the combined seniority list of Technician Grade III dated 31.7.2003 was issued which was challenged by the affected staff of electrical side by filing an Original Application No. 173 of 2004. The said O.A. was also allowed vide order dated 30th August, 2004 and the seniority listed dated 31.7.2003 was quashed. Subsequently, the respondents again issued a revised seniority list dated 6.7.2007 by which the mechanical staff was assigned seniority below the Electrical Wing and another O.A. was filed which was allowed. The respondents filed a Writ Petition No. 421 (SB) of 2009, but no interim order was granted by the Hon'ble High Court. Needless to say that the respondents issued a modified seniority list. The learned counsel for the applicant also pointed out about the earlier orders passed by this Tribunal in OA Nos. 106 of 2009, Shambhoo Prasad Vs. Union of India and Others decided on 17th March, 2009, and O.A. No. 222 of 2009 , Naveen Kumar Vs. Union of India & Others decided on 10th April 2014. Not only this , the respondents have also filed the Writ Petition before the Hon'ble High Court vide Writ Petition No. 241(SB) 2009.

4. The respondents filed their detailed counter reply and through their counter reply, it is indicated by the respondents that the seniority list was issued strictly in accordance with the rules

and there is no violation of any nature. It is also pointed out by the respondents that the respondents have also preferred a Writ Petition No. 400 (SB) of 2005 challenging the order dated 30th August 2004 before the Hon'ble High Court and it is also pointed out that due to pendency of the Writ Petition, the benefit of restructuring effective from 1.11.2003 could not be given to the applicants on account of pendency of the Writ Petition.

5. Learned counsel for the applicant filed rejoinder and through rejoinder mostly the averments made in the O.A. are reiterated. However, once again the learned counsel for the applicant relied upon earlier decisions of this Tribunal passed in O.A. No. 182 of 2011 Ateesh Babu vs. Union of India and Others as well as O.A. No. 106 of 2009, Shambhoo Prasad Vs. Union of India and Others decided on 17th March, 2009, and O.A. No. 222 of 2009 , Naveen Kumar Vs. Union of India & Others and prayed that the same benefit be extended to the applicants of the present O.As as well.

Apart from this, it is also argued on behalf of the applicants that the order of the Tribunal has not been stayed by the Hon'ble High Court. The averments on behalf of the applicants are that the applicants are entitled for promotion w.e.f. 1.11.2003 in terms of the modified seniority list dated 25.8.2009 and restructuring scheme dated 9.10.2003, but the said benefit was not extended to the applicants on account of pendency of the Writ Petition No. 241 (SB) of 2009 against an order of the Tribunal dated 10.11.2008.

6. Heard the learned counsel for the parties and perused the record.

7. Admittedly, the applicants are working with the respondents organization and aggrieved by the action of the respondents. After quashing of the seniority list dated 31.7.2003, a Writ Petition No. 400(SB) 2005 was preferred in which no

stay order has been granted by the Hon'ble High Court. It is also undisputed that the applicants claims the benefit of restructuring w.e.f. 1.11.2003 in the cadre of Technician Grade II. Not only this, the reliance has also been placed by the learned counsel for the applicant in regard to the decisions rendered by this Tribunal in O.A. Nos 106 of 2009, 182 of 2011, as well as 222 of 2009 and prayed that the respondents be directed to give effect to the restructuring in the case of the applicants as prayed for in the O.A. subject to the final out come of Writ Petition No. 400(SB) of 2005 as well as Writ Petition No. 241 (SB) of 2009.

8. We find no reasons to defer with the orders passed by the Tribunal in O.A. Nos. 106 of 2009, Shambhoo Prasad Vs. Union of India and Others decided on 17th March, 2009, 182 of 2011 Ateesh Babu vs. Union of India and Others, decided on 21st May 2014 as well as O.A. No. 222 of 2009 , Naveen Kumar Vs. Union of India & Others decided on 10th April, 2014.

9. Accordingly, the OAs are partly allowed. The impugned order dated 13.1.2009 in O.A. No. 155 of 2009 and the impugned order dated 26.5.2010 in all other OAs are quashed and the respondents are directed to give effect to the Restructuring Scheme dated 9.10.2003 read with clarification issued by Railway Board on 23.07.2004 subject to final out come of Writ Petition No. 400 (SB) of 2005 as well as Writ Petition No. 241 (SB)of 2009 within a period of six months from the date of certified copy of order is produced subject to availability of vacancies. No order as to costs.

(Ms. Jayati Chandra)
Member (A)

(Navneet Kumar)
Member (J)

14-7-2014

Vidya

Section Officer
Central Administrative Tribunal
Lucknow Bench
Lucknow

14-7-2014