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Amendment NO - C-5

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. No. 91 of 1989

S.K. Srivastava

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Mem. Member.

(Hon. Mr. A.B. Gorthi, Adm. Member)

The applicant in this case is aggrieved by a system adopted by the Northern Railway, whereby the training period for the departmental candidates selected for promotion to the post of Station Master/Assistant Station Master/Assistant Yard Master against the 10% quota was reduced from 3 years to one year whereas it continued to be 3 years for direct recruits like him selected against the 10% quota. The applicant, therefore, prays that he will be assigned seniority over those departmental candidates (respondents 4 to 11) who were promoted after one year's training only.

2. The applicant was selected as Traffic Assistant against the 15% quota ~~was~~ allotted the direct recruits and joined the training course at Chandausi on 14.7.83 and after completion of 3 years training, joined the Lucknow Division of Northern Railway on 25.11.86. Para 123 of the Indian Railway Establishment Manual reads as under:

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"123. Recruitment- Traffic Apprentices are recruited to fill a maximum of 25% of annual vacancies for appointment in the categories of Section Controllers/Asstt. Station Masters, Asstt. Yard Masters and Traffic Inspectors in scale of Rs 250-380.

Qualifications:

(a) Age: between 20 and 24 years.

(b) Education: a University degree,

Training: Stipend Rs 205-7-219. Candidates will be required to undergo training for a period of three years in the various area schools as and on the line at important sections, on running trains and on the yards, & c.

Channel of promotion:

They will be eligible for promotion to supervisory posts rising to Rs 450-575.

The aforesaid 25% quota was bifurcated in 1972 as 15% for direct recruits and 10% for Graduates from the department. Respondents 4 to 13 who were selected in the 10% quota vide Lucknow Division Letter dated 27.9.83 (Annexure A-5) were detailed to attend P-29 B ^{course} ~~grades~~, with effect from 7.12.83. They completed training on 6.12.84, contrary to the provisions of para 123 of the Indian Railway Establishment Manual

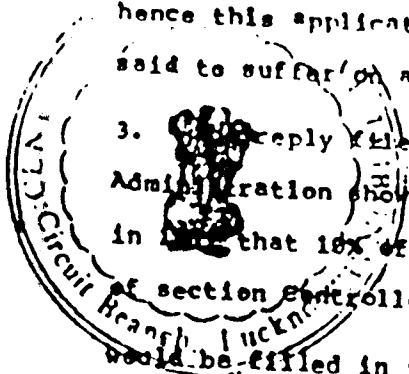
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Manual. Apart from this, the applicant was selected as a Traffic Apprentice on 14.6.82 whereas respondent No. 4 to 13 were selected for training vide Annexure A-5 dated 27.9.83. The applicant, thus, contends that he should have been assigned seniority over respondents Nos. 4 to 13.

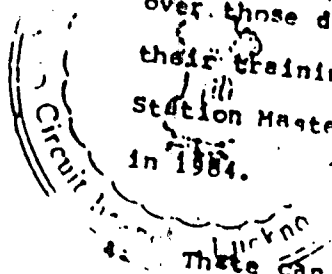
2. The respondents at the very outset objected to the application on the ground that it is barred by time. We are however, satisfied that the applicant came to know of the disparity in the training periods of the direct recruits and the departmental candidates sometime in 1988 only and hence this application filed in 1988 cannot be said to suffer on account of delay or laches.

3. A reply filed on behalf of Railway Administration shows that the Railway Board, decided in 1987 that 10% of the vacancies in the category of section controllers, S.M., A.S.M. and A.Y.M., would be filled in through the departmental competitive examination from Class III non-Ministerial staff possessing a University Degree and below the age of 33 years. They have further stated that para 123 of I.R.E.M. stands modified by Railway Board's letter No. E(N.G.) 111-72 RRI/18 dated 18.3.72. They have, however not produced a copy of the said Railway Board's order. According to them, the ¹⁵15% vacancies were sub allotted between the direct recruits and the departmental candidates in the proportion of 15% and 10% respectively. The General Manager has the powers to make the rules in regard to Group C and D posts



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under his control as stipulated in rule 124 of the Indian Railway Establishment Code, Volume I. Further the General Manager, vide paras 117(A) of the I.R.E.M. has been empowered to prescribe any promotional courses and their duration. Accordingly, the General Manager, Northern Railway prescribed the duration of 12 months training for the departmental staff against the 10% quota. As regards seniority, the respondents have stated that it counts from the date when the training ^{is} completed after completion of the training joined the post not from the date when he reports ~~from~~ the training in terms of para 302 of the I.R.E.M. The respondents, thus, contend that the applicant who completed the training and joined his post in 1986, ~~cannot~~ ^{cannot} claim seniority over those departmental candidates who completed their training and assumed the promotional post of Station Master/Trains Inspector/Section Controller in 1984.



There can be no dispute that the direct entry candidates are fresh recruits whereas the departmental candidates are those who have had some exposure to the working of the various departments of the railways. We, therefore, see, how the fixation of different periods of training for ^{the} two streams can be said to be either unfair or unjust. It is seen from the record that the question of fixation of adequate period of training was ^{not} subject to ^a critical

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examination before a decision was taken, that a period of 12 months of training would suffice. As regards inter-se seniority between the direct recruits and the departmental candidates, the learned counsel for the applicant has vehemently contended that under no circumstances, departmental candidates selected ^{at} ~~for~~ ^{time as} the same ~~as~~ that of direct recruits should be given seniority over the ~~applicant~~ direct recruits as has been done in the instant case. The learned counsel for the respondents has drawn our attention to para 302 of I.R.M. which reads as under:

"302. Unless specifically stated otherwise, the seniority among the incumbents of a post in a grade is governed by the date of appointment to the grade. The grant of pay higher than the initial pay should not, as a rule, confer on a railway servant seniority above those who are already appointed against regular posts. In categories of posts partially filled by direct recruitment and partially by promotion, criterion for determination of seniority should be the date of promotion in the case of a promotee and date of joining the working post in the case of a direct recruit, subject to maintenance of inter-se seniority of promotees and direct recruits among themselves. When the dates of entry into a grade of promoted railway servants and direct recruits are the same, they should be put in alternate positions, the promotees being senior to the first direct recruits maintaining inter-se seniority of each group"

attention to an advance correction slip No. 121 dated 4.2.81 to para 102 in Chapter 1 section 2, Sub section 1 which provides that seniority being assigned only with effect from the date of joining on the post in the case of direct recruits and from the date of promotion in the case of a promotee irrespective when the vacancies against which they have been recruited/promoted arose.

5. Seniority is an incidence of service, and rules or other relevant administrative instructions prescribed the method of its computation. It has to be reckoned in accordance with the same. In the instant case, we are not convinced that there has been any violation of any rule or other instructions in the matter of either reducing the period of training in respect of the departmental candidates or in the matter of computation of seniority of the direct entry of Traffic Apprentices

vis-a-vis the departmental candidates selected for promotion against their respective quotas. The application, cannot, therefore succeed and is hereby dismissed. Parties to bear their own costs.

Shakeel/

Lucknow Dated: 21-1-92

V.C.

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L. K. Gupta
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

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