

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A. no. 280/89

Lucknow this the 1st day of July 1996.

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. V.K. SETH, MEMBER(A)

D.C. Tiwari son of Sri R.N. Tiwari, basic
Boiler Maker, Loco Shed, N.E. Railway Loco Shed,
Charbagh, Lucknow.

Applicant.

By Advocate None.

versus

1. Union of India through Ministry of Railways, new Delhi.
2. D.R.M.(P), N.E.R. Lucknow.
3. Assistant Mechanical Engineer(L) NER Loco Shed, Gonda.
4. Senior Divisional Mechanical Engineer (L), N.E. Railway, Lucknow.

Respondents.

By Advocate None.

O R D E R

HON. MR. V.K. SETH MEMBER(A)

By means of this O.A., the applicant has prayed for directions to the respondents to treat him senior to Bhagwati Prasad Chaubey, B.M. and also to treat him as promoted with effect from 17.2.1993 with arrears of pay and allowances etc. He has also sought directions for immediate decision on his appeal/representation pending with the respondents.

2. Pleadings have been exchanged between the two sides. On 24.5.1996, when the case was called out, nobody responded for the parties.

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There was also no request for adjournment. In view of this position as also the fact that this is an old case, we are deciding it on the basis of records. Record shows that the applicant had filed Misc. petition seeking amendment of the O.A. The said M.P. was allowed but the amendments were not incorporated with the result that no Supplementary pleadings were filed. The O.A. is therefore, being considered without amendments.

3. The applicant was initially appointed as B.M. Khalasi on 8.1.1965 in the Loco Shed Charbagh Lucknow and was transferred to Loco Shed Gonda. He is claiming seniority over S/Sri Bhagwati Prasad Chaubey, Jangi Teli, Nunna, R.K. Misra and Shiv Prasad as M.M. Khalasi. In the O.A., he has referred to his various representations on the subject commencing from 30th March, 1982 and upto 4.6.1986 and also reminders of 9.2.88 and 17.10.88. It is also stated that he has personally met respondents several times but with no results and hence the present O.A.

4. At the outset, it may be mentioned that the applicant has not impleaded Shri Bhagwati Prasad Chaubey and others over whom he is claiming seniority as B.M. Khalasi. No orders to their prejudice can, therefore, be passed. The O.A. therefore, deserves to be dismissed on this ground alone. Nonetheless, we may briefly discuss the merits of the case.

5. The main grounds advanced by the applicant is that he was appointed to a substantive post on 8.1.1965 whereas some others, named above joined subsequently.

6. In their counter affidavit the respondents have inter alia stated that Shri Bhagwati Prasad was promoted at District Gonda

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on 27.2.1967 as Basic Boiler Maker after passing the trade test. It is further stated that the seniority of B.M./Khalasi is not carried over to the post of Basic Boiler Maker. It is also stated in para 6 of the counter affidavit that the applicant was promoted as Basic Boiler Maker vide office order of 12.10.1982. A further averment has been made that Shri Bhagwati Prasad Chaubey was promoted as 27.6.92 as Basic Boiler Maker, thereby ceasing to have lien in the seniority list of B.M. Khalasi when the applicant was still B.M. Khalasi. The respondents have also taken ^{the} stand that the claim of the applicant is highly barred by time as he should have agitated the matter in 1973 from which date he is claiming parity with Shri Chaubey while ^{he is} ~~he is~~ raising the issue for the first time in 1989.

7. We find force in the stand of the respondents. We also notice that an appeal dated 8.9.82 of the applicant on the subject was decided by the D.R.M. vide detailed and reasoned order dated 24.1.1983. On the above grounds and also for the reason that the necessary parties have not been impleaded, we reject this O.A.

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MEMBER(A)

Bochaksu
VICE CHAIRMAN

Lucknow; Dated: 18.7.92.

Shakeel/