

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

ORIGINAL APPLICATIONS NO. 634/95, 152/92 & TA No. 7/92 (of 1144/91)

this the 16<sup>th</sup> day of July 2001

HON'BLE MR. D.C. VERMA, MEMBER (J)

HON'BLE MR. A.K. MISRA, MEMBER (A)

TA No. 7/92

1. Ram Kumar s/o Late Sri Moolchand
2. R.P. Singh, s/o late Sri Bharat Singh.
3. Babu Lal s/o Sri Kashi Prasad
4. Kunwar Bahadur s/o late Sri Kali Charan.
5. M.R.D.Nair s/o Sri N. Raman Pillai.
6. MGR Nair s/o late Sri Gopala Kurup
7. Shyam Manohar s/o late Sri Sarjoo Prasad.
8. Barati Lal s/o late Sri Bala Das.
9. K.K.Nair s/o late Sri Krishna Kurup.
10. Behari Lal s/o late Sri Jia Lal.

....Applicants

By Advocate: Sri Sanjay Singh B/h for Sri I.B.singh

Versus

1. Union of India through Secretary/Chairman, Ministry of Railways, Railway Board, Govt. of India, Rail Bhawan, New Delhi.
2. Director General, Research Design and Standards Organisation, Manaknagar, Lucknow.

....Respondents

By Advocate: Sri Praveen Kumar B/h for Sri Anil Srivastava.

O.A. NO. 634/95

Bindra Prasad Yadav aged about 58 years s/o Sri Ram Ratan r/o Pandey Ka Purwa (Chak Bharauli), Post Hathonda, District- Barabanki.

....Applicant

Versus

1. The Union of India through the Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. The Director General, R.D.S.O., Manaknagar, Lucknow.
3. Ram Kumar working as a Fitter Grade I c/o Director General RDSO, Section Officer-7. Manaknagar, Lucknow.
4. Sri Sant Ram working as Fitter Grade I in the office of Section Officer 7, c/o Director General, RDSO, Manaknagar, Lucknow.

...Respondents

By Advocate: Sri Praveen Kumar B/h for Sri Anil Srivastava.

O.A. NO. 152/92

1. Randhir Singh, aged about 58 years (Retd.) s/o Sri Suraj Bux Singh.
2. Fateh Chand aged about 54 years s/o Sri Thoni Ram
3. narain Singh aged about 54 years s/o Sri Padam Singh.
4. Mohan, aged about 53 years s/o Sri Bhagwandeem.
5. Rameshwar aged about 55 years s/o Sri
7. Jagdish Singh aged about 50 years s/o Sri Saidul Singh.
8. Rama Nand aged about 49 years s/o Sri Nankoo,

....Respondents

....Applicants

Versus

1. Union of India through Ministry of Railway, Rail Bhawan, New Delhi.
2. Director General, RDSO, Manak Nagar, Lucknow.

....Respondents

By Advocate: Sri Praveen Kumar B/h Sri Anil Srivastava.



ORDER

MR. A.K. MISRA, MEMBER (A)

'Since issues involved in all the three OAs are similar, they are disposed of by a common and consolidated order.

TA No. 7/92

2. The applicants of TA No. 7/92 in OA No. 1144/91 have prayed that the revised seniority list issued vide letter dated 7.6.91 (Annexure A-7) be quashed and the seniority of the applicant as shown in the seniority list circulated under letter dated 25.8.1987 (Annexure A-5) be restored. A further prayer is for issue of directions to the Director General, RDSO not to hold any selection or to make promotions on the basis of revised seniority list circulated under letter dt. 7th June, 1991 (Annexure A-7). It is also prayed that the staff notice dated 6th August, 1991 (Annexure A-10) be quashed.

OA NO. 634/95

3. The applicant to OA No. 634/95 has prayed for quashing of the promotion/posting orders of his juniors and to promote the applicant on the post of Fitter Grade I from the date of promotion of respondents No.3 and 4 along with all consequential benefits. It has also been prayed that the order dated 19.1.1995 (Annexure No.1) be quashed.

OA NO. 152/92


4. The applicants to OA No. 152/1992 have prayed that they be given the benefit of salary like other similarly placed employees.

5. Pleadings on record have been perused and learned counsel for the parties have been heard.


6. In TA No. 7/92, the seniority list of 7.6.91 has been challenged. The brief facts in this



regard are that the Railway Board by letter No. E(NG)II/77 dated 17.4.79 sanctioned 574 posts in the scale of Rs. 196-232 against decasualisation scheme. Accordingly all the temporary status staff were regularised from 17.4.79 under the decasualisation scheme in the initial grade of Rs. 196-232 as it then existed. It may be stated here that the class III staff of skilled workers were also regularised initially as Class IV in the initial grade of Rs. 196-232. Earlier the applicants and other such staff had been working as casual staff in the category of Khalasis, semi skilled fitters, skilled fitters and highly skilled fitters and were granted temporary status w.e.f. 1.4.1974. After prolonged correspondence, a total 155 additional posts were sanctioned by the Railway Board in the categories of semi skilled fitters (Rs. 210-290) Skilled fitters (260-400), Highly skilled fitters grade II (330-480) and Highly skilled fitters Grade I (330-560) under the scheme of decasualisation in substitution of 206 posts sanctioned in the lowest grade of Rs. 196-232. The said 155 posts were sanctioned in the semi skilled/skilled/highly skilled grades so that all casual workers working in the aforesaid scales could be absorbed as per rules keeping in view the claim of the concerned staff, particularly the regular employees in the unskilled grades for promotion to semi skilled and skilled grades. A copy of the relevant letter of the Railway Board dated 15.7.82 issued under F.No.E(NG)II-77/CL/46 has been filed as Annexure A-3 to the OA. An inter-se seniority list in respect of Artisan staff of the regular as well as the decasualised




stream was published by the RDSO under staff notice No. E/DC-25/8/87 dated 25.8.87 (Annexure A-5 to the OA) showing the seniority position of skilled fitters grade III as on 15.7.82. The said list of regular and decasulised Artisan staff was based on their length of service in the particular cadre and in case of tie on the basis of length of service in the next lower cadre. Accordingly, in the integrated seniority list of regular and decasualised artisan staff, the names of regular skilled staff as on 15.7.82 were placed first and the names of decasualised skilled staff in the same grade were placed below the names of regular staff as on 15.7.82. Since the sanction of the Rly. Board for creation and filling up of 155 posts in higher grades was given by circular letter of 15.7.82, the staff working on these posts was regularised w.e.f. 15.7.82. Similarly, the regular semi skilled staff reclassified as skilled w.e.f. 1st August, 1978 was placed above, the reclassified skilled staff w.e.f. 1st August, 1979 from the decasualised stream. Thus in effect the regular skilled staff as also the regular semi-skilled staff was placed above the decasualised semi-skilled and skilled staff. In consequence of reclassification based on the integrated seniority list of the regular and decasualised staff, selection was held and certain regular staff aggrieved by the selection based on the integrated seniority list, filed OA Numbered as 179/1989 (L) before this Tribunal. The said OA was decided by this Tribunal with the direction to the respondents to decide the representation of the applicants to OA No. 179/89 as per rules. Accordingly, in compliance of the orders of this Tribunal in OA No. 179/89, a



fresh seniority list as per Annexure A-7 to the OA was drawn up and circulated under staff notice dated 7th June, 1991 which has been challenged by the applicants to this O.A. The seniority list issued under staff notice dated 7.6.1991 shows the seniority position of skilled fitters grade III as on 1.4.1984.

7. The purpose of creating 155 posts was to absorb all the decasualised staff and to regularise them. In consequence of the order passed by this Tribunal in OA No. 179/89 dated 18.4.90, the Director General, RDSO found that there was merit in the stand taken by the applicants to OA No. 179/89 in the light of the letters of the Railway Board dated 16.1.93 and 17.11.74 and hence issued the revised seniority list of skilled fitters grade III by letter dated 7.6.91 which superseded the earlier list of 25th August, 1987 which was issued without following the instructions of the Rly. Board relevant to absorption of the temporary status staff. In this regard, it may also be stated that the applicants to the present OA were holding temporary status for want of regular posts although they had been appointed in the cadre of unskilled, skilled and highly skilled staff. As against this, the applicants to OA No. 179/89 namely Sri R.D.Singh and Others were working as regular staff who were absorbed against 25% vacancies as per rules, whereas applicants to the present OA were yet to be absorbed against 25% vacancies.



8. Further since the applicants were working in the capacity of temporary status staff when 155 posts of skilled category were received from the Railway Board on 15.7.82, the applicants could not be treated as regular staff prior to 15.7.82 because prior to this date, regular posts for their absorption were not available. As against this applicants to OA No. 179/89 namely Sri R.D. Singh and others were working as regular staff and ~~and~~ had been absorbed against 25% vacancies as per rules. It is for this reason that applicants to the present OA ~~could~~ not be treated as senior to the applicants to the OA No. 179/89 namely Sri R.D. Singh and others. Accordingly, as directed in the order dated 18.4.90 passed by this Tribunal in the case of R.D. Singh and others in OA No. 179/89, the Director General, RDSO revised the seniority list circulated by letter dated 25.8.87 showing the seniority position of skilled fitters Gr. III as on 15.7.82. As regards the representation of the applicants to this OA, the same had been considered and replied to by letter dated 24.3.92.

9. In view of the discussion made in the foregoing paragraphs we are of the considered view that the TA No. 7/92 in OA No. 1144/91 has no merit. The interim order dated 23.2.96 by which earlier interim order of 25.11.91 in OA No. 1144.91 (TA No. 7/92) was modified is hereby vacated.

10. As regards OA No. 634/95, it is seen that by this application, the applicant has in fact challenged the seniority list of 13.9.85 as



contained in Annexure 2 to the OA and is seeking promotion from the date the respondents No. 3 and 4 were given promotion i.e. w.e.f 16.10.89, as per Annexure 3 to the OA. On behalf of the respondents a preliminary objection was raised to the effect that the OA in respect of both the reliefs namely challenging the seniority list of 13.9.85 and seeking promotion from 16.10.89 i.e. the date on which the respondents No. 3 and 4 were given promotion are hopelessly barred by limitation in as much as OA No. 634/95 was filed as late as on 1st December, 1995. Section 21(1) of the AT Act 1985 prescribes a period of one year for filing an application from the date on which the cause of action arose. The cause of action for the applicant to the OA No. 634/95 arose on 13.9.85 and on 16.10.89. Thus reckoned from 13.9.85, the present OA should have been filed by September, 1986 and reckoned from 16.10.89, the present OA should have been filed in October, 1990. The OA having been filed on 1st December, 1995 is hopelessly barred by limitation under section 21(1) of the AT Act, 1985 and therefore, is liable to be dismissed on this ground alone. Besides it is also seen that the OA is not accompanied by any application for condonation of delay and hence no explanation whatsoever has been offered on behalf of the applicant for the delay in filing the present OA. Accordingly, the OA is liable to be dismissed on the ground of limitation alone.

11. As regards the applicants in OA No. 152/92, the only relief claimed by them pertains to the benefit of salary given to the other similarly placed employees. The facts in






this case are more or less similar to those<sup>in</sup> TA No. 7/92 (OA No.1144/91) which have been discussed in detail~~s~~ in paragraphs 6,7 and 8 above. Therefore, it is not necessary to discuss again the facts while dealing with the relief claimed in this OA.

12. Briefly stated the applicants in para 4.8 of the OA have stated that although the respondent No. 2 has corrected the seniority of the applicants but no orders have been passed as regards arrears payable to the applicants on account of difference in salary whereas those junior to the applicants have been given the benefit of arrears. It is stated that one Sri Bansi Lal, Junior to the applicant has been extended the benefits of arrears of salary. The representation of the applicant~~s~~ dated 2.7.91 was decided by the respondents on 31st July, 1991 stating that this Tribunal while disposing of OA No. 179/89 did not pass any order in respect of arrears of salary payable to the applicants.

13. In the Rejoinder Affidavit filed by the applic<sup>a</sup>nts, it has been stated in para 2 and in para 5 that at least 17 persons junior to the applicants have been extended ~~the~~ benefit of arrears of salary which has been denied to the applicants without any justification. It is further stated that the benefit of arrears of salary is payable w.e.f. 1.4.84 to the applic~~nts~~ also as juniors to the applicant~~s~~ were given this benefit from the said date. It is contended that the respondents have thus acted in a discriminatory manner in violation of Articles 14 and 16 of the constitution of India. On behalf of the respondents, it has been stated



in para 4 of the CA that as a result of revision in seniority, the interest of the applicants with regard to their future promotion has been safe guarded, On refixation of their seniority in pursuance of the order of this Tribunal dated 18.4.90 in OA No. 179/89. It is further stated on behalf of the respondents in para 4 that the benefit of refixation w.e.f. 1.4.84 could not be extended to the applicants because the 17 upgraded posts had already been filled up by the candidates on the basis of seniority list issued on 25.8.87 and no further upgraded posts were available. Further in para 17 of the CA, it has been stated that on the basis of the seniority list issued on 25.8.87, Sri Bansi Lal a SC candidate and 16 others were given the benefit of 17 upgraded posts in the skilled fitter Gr. II scale of Rs. 1200-1800 (revised). ~~as~~ These posts were sanctioned by the Railway Board by their letter dated 10.7.85 No. E(P&A)-I-82/JC-1 with retrospective effect from 1.4.1984 and accordingly arrears were allowed to these 17 persons. This benefit could not be extended to the applicants because the 17 upgraded posts sanctioned by the Railway Board by letter dated 10.7.85 have already been filled up in accordance with <sup>the</sup> seniority list of 25.8.87 and no further upgraded posts were available. Hence the benefit of arrears of salary w.e.f. 1.4.84 could not be given to the applicants.

14. Having regard to the factual position as discussed above, we are inclined to take the view that since the benefit of arrears of salary was given to the 17 persons who were

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junior to the applicants of this O.A, all the applicants to this O.A. should also be given benefit of arrears of salary as given to their juniors w.e.f. 1.4.84. Since applicant No. 1 has already retired on 31st January, 1991, the benefit of arrears of salary will be payable to him only upto 31st January, 1991.

15. To sum up O.A. No. 634/95 and TA No. 7/92 are devoid of any merit as held in paragraphs 9 and 10 above and are therefore, dismissed. As regards O.A. No. 152/92, the same is allowed with the direction that all the applicants to O.A. no. 152/92 will be given the benefit of arrears of salary w.e.f. 1.4.84. In so far as the applicant No.1 to O.A. No. 152/92 is concerned, he shall be given benefit of arrears of salary only upto 31st January, 1991 as he superannuated on this date. These directions shall be carried out within a period of three months from the date of receipt of this order. No cost.

  
MEMBER (A)

LUCKNOW:DATED: 16<sup>th</sup> July 2001

HLS/-

  
MEMBER (J)