

(13)

O.A. 473/87

P.V.K.Pillai & Anr.

... Applicants

V/s

General Manager,
Western Railway & Ors.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. S.Natarajan, Advocate
for the applicant and

Mr. A.L.Kasturey, Advocate
for the respondents.

ORAL JUGEMENT:

Dated : 19.8.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicants who entered the Railway service in 1958 and 1954 respectively. While working as Highly Skilled Electrical Chargeman, the applicant No.1 was promoted as Electrical Chargeman in the grade of Rs.425-700 with effect from 27.7.1970 on ad-hoc basis being the senior most in the grade of the Bombay Division of the Western Railway. The Applicant No.2 was promoted on ad-hoc basis with effect from 5.8.1975. They were further promoted on ad-hoc basis as Electrical Foreman on 2.9.1983 and were regularised in the grade with effect from 21.11.1984 and subsequently promoted to the post of Senior Electrical Foreman ~~xxxx~~ on ad-hoc basis with effect from 22.9.1986. A selection for the vacancies to the post of Electrical Chargeman was announced and examination took place in the year 1971 but the result of the same was not announced. Again a fresh announcement was made in the year 1978 and the written examination took place in the month of July 1978 followed by viva-voce. The result of the same was also declared in the year 1980. The applicants were regularised thereafter. The seniority

was published in the year 1985 thereby a Divisional Seniority but later on an All India seniority was published in the year 1986 and the applicants contention is that their names are not found in the seniority list. They made representation and thereafter they approached the Tribunal. The contention on behalf of the applicants is that their seniority has been counted from the date they were empanelled and not even from the date restructuring took place in the year 1984. For no fault of them they have to wait for several years although announcement for the examination was made in the year 1971. In case the examination had taken place in that year applicants would have ranked senior to many of the other persons. But there were lapses in the part of the administration that they did not hold the examination. The Railway administration tried to justify this fact by stating that the applicants were empanelled in the year 1980 and as such their seniority will be counted from that date and they are not entitled to the benefit for the period they worked on ad-hoc basis on the very same post. On behalf of the applicant it has been contended that in view of para 321 of the Indian Railway Establishment manual the seniority is to be counted from the date of the ad-hoc officiation and if there is any doubt in this behalf the doubt has been cleared by the Railway Board in its circular dated 12.10.83 which is reference to para 321 of the Indian Railway Establishment Manual which provides the total length of continuous service in the same or equivalent grade rendered by the employee of the concerned determines his seniority vis-a-vis the other staff for purposes of consideration for empanelment and promotion to such post. For this purpose the Railway Board has also made it clear in that circular as to what is non-fortuitous vacancies and according to that circular such vacancies will arise only on account of retirement.