CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 165/99, 26/94 and 416/2000

TUESDAY the 27th day of FEBRUARY 2001.

CORAM: Hon'ble Shri Justice Ashok C. Agarwal, Chairman.

Hon'ble Ms. Shanta Shastry, Member (A)

1. R.B. Onkar
Junior Engineer Grade II

2. D.S. Kadam
Junior Engineer Grade II

3. V.V. Borgaonkar
Junior Engineer Grade II

4. G.K. Sarode
Junior Engineer Grade II

5. S.S. Shinde
Junior Engineer Grade II

6. U.J. Sadwilkar
Master Craftsman

7. G.N. Patki
Technician Grade I (Mech)

8. K.M. Dolle
Technician Grade I (Mech)

9. D.P.Deore
Technician Grade I(Mech)

10. A.A. Kunjeer
Technician Grade I (Mech)

11. N.G. Shinde
Technician Grade I(Mech)

12. S.K. Bagalkot
Technician Grade I(Mech)

13. D.S. Didwal
Technician Grade I (Mech)

14. D.P. Warne
Technician Grade I (Mech)

15. V.M. Pardesi
Technician Grade I (Mech)

16. P.M. Harde
Technician Grade I (Elect)

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17. R.B. Diwate
Technician Grade I (Mech)

18. A.V. Nanaware
Technican Grade I (Mech)

19. S. Chimalgikar
Technician Grade I (Elect)

20. N.D. Mahamuni
Technician Grade I (Elect)

...Applicants in OA 165/99

All applicants are working in Ghorpadi Diesal Loco Shed, Ghorpadi Railway Station, Pune.

By Advocate Shri S.P. Saxena

1. Digambar B. Zadage
Engine Fitter, Grade I

2. Vijay S. Govande
Engine Fitter, Grade I

3. Jagannath T. Sonawane
Engine Fitter, Grade I

4. Prakash B. Chapre
Engine Fitter, Grade I

5. Sakharam L. Patil
Engine Fitter, Grade I

6. Saifuddin M. Kaladgi
Engine Fitter, Grade I

7. P.P. Sakate
Engine Fitter, Grade II

8. Mahadeo Pandurang
Engine Fitter, Grade II

9. Pradeep Gulab
Engine Fitter, Grade II

10. Ramsingh Bisansingh
Engine Fitter, Grade II

11. Bhimrao Namdeo
Engine Fitter, Grade II

12. Rafiq Ahemad
Engine Fitter, Grade II

...Applicants in OA 26/94

All Applicants are working in Diesel Loco Shed, Central Railway,Pune.

By Advocate Shri S.R. Atre.

1. Isaac Trevor
   Grade I Tech Electrician

2. Carlyle T.J. Kkennett
   Grade I Tech Electrician

3. A. Gopi
   Grade I Tech. Electrician

4. Ankush S. Bhosale
   Grade I Tech. Electrician

5. Jagannath Keshar Sonawane
   Grade I Tech. Electrician ...Applicants in OA 416/2000

All applicants are working in Diesal Shed, Central Railway, Ghorpuri,Pune.

By Advocate Shri S.P. Saxena

V/s

1. Union of India through
   The Secretary
   Ministry of Railway
   Rail Bhawan,
   New Delhi.

2. The Divisional Railway Manager
   Poona Division (Central Railway)
   Pune Railway Station,
   Pune.

3. The Senior Divisional
   Mechanical Engineer (D)
   Pune Railway Station,
   Pune. ...Respondents in OA 165/99 and OA 416/2000.

1. The General Manager,
   Central Railway, Fort
   Bombay.

2. The Divisional Railway Manager
   Central Railway, Sholapur.

3. The Senior Divisional Mech.
   Engineer, Central Railway,
   Diesel Loco Shed,
   Ghorpur, Pune. ...Respondents in OA 26/94

By Advocate Shri S.C. Dhawan.

ORDER (ORAL)

{Per Ms. Shanta Shastry, Member (A)}

All the three OAs have common point of law and the cause of action is also same, therefore we are disposing of all the three OAs by a common order.

2. The order under challenge is the final seniority list of Artison Staff of Diesal Loco Shed dated 19.3.1993.

2. For better appreciation brief facts are given below:

The Diesal cadre on Solapur Division was introduced some time in 1981. Accordingly the Pune Diesal Shed was commissioned. In order to start the work of the Shed, options from staff of various Divisions were called for to be absorbed in the Diesal cadre. This was open till 31.12.1986 for various staff to be absorbed and it was closed on 1.1.1987. It was done with the concurrence of the Central Railway Mazdoor Sangh and National Railway Mazdoor Union which are the recognised Unions of Railways. The seniority list of the staff working in Diesel cadre was published for Artisan cadre in the year 1993 based on the instructions contained in CPO Mumbai's letter dated 8.1.1987 and in terms of paras 323, 324 and 325 of the Indian Railway Establishment Manual Vol. I revised Edition 1989. The provisional seniority list was published vide letter dated 19.3.1993. Objections were invited and the list was finalised on 20.7.1994. This list was acceptable to most of the staff.

However some staff had given representations and appeals against the seniority list. These are the applicants in OA 26/94 who were not happy with the senioirty list. While the employees were under the impression that this was final seniority list, a fresh seniority list was issued on 2.6.1998 giving the position as on 1.4.1998. This list was finalised on 9.3.1999 giving the position as on 1.1.1999. As a result of this seniority list some staff had to be reverted. These reverted employees are the applicants in OA 416/2000. This seniority list has also been challenged by those applicants who were recruited directly, viz. the applicants in OA 165/98. Thus the seniority list of 9.3.1999 has been challenged by all the applicants in all the OAs for their own reasons as it has disturbed their seniority considerably with likelihood of reversion of some of the other applicants also.

3. The contention of the applicants in OA 165/99 is that while it is acceptable to them that they would be junior to those who were already existing in the Pune Shed, they cannot be made junior to those who had come from outside Sheds / Units. The applicants in OA 26/94 have the grievance that the respondents have not followed the norms properly and they are relying on paras 323,324 and 325 of the Indian Railway Establishment Manual Vol I. Whereas they should have relied on para 311 of the same Manual. Also they have contended that those who have been transferred in the interest of administration from one Diesel Shed to another in the parent cadre and their seniority in the transfered Diesel

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Shed should be maintained interse. The persons who were from outside departments should get their seniority according to the date on which they joined and those who were transferred from one shed to another after 31.12.1986 should get their seniority on the date on which they joined in the Diesel Shed. The applicants have also argued that the principle of length of continuous officiation has not been taken into consideration by the respondents while finalising the seniority list. The applicants in OA 416/2000 have pointed out that some of their juniors have been shown senior to them with the result they have been reverted.

4. The respondents contend that they have gone strictly according to the instructions contained in CPO's letter dated 8.1.1998 wherein thenorms were laid down. These norms are:

> 1. At present the posts in various grades in Pune Diesel Shed are filled in by transferring volunteers from other Diesel Sheds/ units to the extent needed. The grades that are controlled at the divisional level are from Rs. 196-232 (Rs/-)/750-940(RPS) to Rs. 425 - 700(RS) /1400-2300(RPS). Both the recognised unions Viz. CRMS & NRMU have considered the proposal and have conveyed their acceptance that the cadre at Pune Diesel Shed may be closed.
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> 2. Accordingly there would be no more induction of staff from other sheds/units in Pune Diesel shed in the grades upto and indcluding Rs.550 -750(RS)/1600 -2660(RPS).
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> 3. The seniority of staff working in various grades in Pune Diesel shed as on date of closure viz. 1.1.87 should be regulated according to normal rules.
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> 4. However, in the case of those employees transferred from other diesel/sheds/units, if any one was due for promotion in his parent unit as per seniority position but was not brought under

consideration in the parent seniority unit, he should be given proforma position with reference to the date of promotion of his immediate junior, provided of course the former was found suitable for promotion in Pune Diesel shed either on selection/non-selection basis according to the rules.

5. The interpolation of the seniority of the staff drafted from other Diesel sheds/units in a grade should be regulated according to normal rules, e.g. in the case of selection post, from the date of approval of the panel by the Competent Authority in the respective parent seniority unit/oractual date of regular promotion by virtue of panel position in their parent seniority unit.

6. Directly recruited skilled artisans posted to working post after successful completion of their training in Pune Diesel shed would rank junior to all the skilled artisans already working at Pune Diesel shed on a regular basis.

7. Necessary action may therefore be taken accordingly and provisional seniority list already publised if any, be revised and brought upto date and notified for the information of the staff. Action may also be taken to initiate selections/trade tests whereever necessary, to regularise adhoc promotions already initiated so far; on local basis.

5. The respondents further stated that in the case of the applicants in OA 165/99, their seniority had to be changed because they were promoted fortuitously. The service rendered in a non fortuitous post only can be considered. Their fortuitous promotion was taken for purposes of seniority in the seniority list inadvertently. Similarly in the case of applicants in OA 416/2000 these people were already junior to those who have been mentioned as their juniors in the OA even when the listof 20.7.1994 was finalised. At that time also they were junior and therefore they cannot make any complaint about it now. Also the

norms which were laid down in CPO's letter dated 8.1.1987 were never challenged by the applicants and they cannot challenge the same after a lapse of many years.

6. The learned counsel for the respondents again averred that they have strictly followed the normal principles of seniority and therefore no fault can be found with the seniority list of 9.3.1999 which has been finalised after taking into consideration the various objections raised by the staff. Since the entire position was clearly placed before the applicants, they cannot now have any grievance against the seniority list.

7. The contention of the applicants in OA 26/94 that the respondents should have followed para 321 of the IREM Vol.I because they were transferred in administrative interest has been refuted by the respondents. They point out that these applicants volunteered for the transfer by giving their option. Therefore para 321 of IREM cannot be made applicable. When the transfer is in the interest of administration then seniority is regulated by the date of promotion / appointment to the gradae as the case may be. This would apply in normal circumstances of transfer. But the applicant's transfer to Pune Diesel Shed was as a result of their own option. They were not compelled to go on transfer. Hence the respondents have adopted the norms in paras 323 to 325 which apply in special circumstances. Para 323 makes it clear that the length of non-fortuitous service in the grade shall be the basis for fixing the relative seniority.

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8. In fact there were 7 different types of staff who came to be absorbed in the Diesel shed, Pune as below:

A. Directly recruited ;ITI candidates in Tech. III before 1.1.1987.

Regular date of promotion in grade III taken into account, but promotions to Grade II and Grade I in open cadre treated as if promoted on 1.1.87, i.e. on the date of closure of cadre.

B. Technicians of other sheds and units absorbed in Diesel Cadre before 1.1.87 in Technician Category.

Parent cadre position as on 1.1.87 maintained for assignment of seniority.

C. Absorbed as Technician Ex. Steam Cadre of Solapur Division.

Parent Cadre position as on 1.1.87 maintained for assignment of seniority.

D. Inducted Ex. other Units/Sheds while working in Gr.D and promoted to Grade III before 1.1.87 after pre-promotional training.

Parent Cadre position as on 1.1.87 maintained for assignment of seniority.

E. Entire Diesel Shed, Kurduwadi staff merged in Diesel Cadre on 15.1.87 i.e. after Diesel Cadre was closed on1.1.87.

Assigned seniority maintianing their original seniority position in Diesel Shed, Kurduwadi,(Which was a separate cadre prior to 15.1.87) as on 15.1.87.

F. Group D staff of original Diesel Cadre, promoted to Technician Gr. III before 1.1.87.

Treated as ifpromoted on 1.1.87, assigned seniority as per date of regularisation in Gr.D.

G. Group D staff promoted to Tech. III after 1.1.87.

Actual date of promotion to Tech. III maintained for seniority.

H. Directly recruited ITI candidates appointed after 1.1.87.

Date of regular appointment to Tech. III maintained for seniority purposes.

7. The respondents have given detailed statement as to how the seniority has been assigned to these different categories. We have perused the same. We are of the considered view that the respondents have tried to make the best of the situation by following the normal principles and accordingly they have finalised the seniority list of 1999. We do not find any infirmity in this list.

8. We have heard the learned counsel for the applicants in all the three OAs as well as the learned counsel for the respondents. We find that the respondents have followed the normal principle by taking into consideration the various grievances.

9. In the facts and circumstances of the case all the three OAs are dismissed. We do not order any cost.

(Ms. Shanta Shastry)
Member(A)

(Ashok C. Agarwal)
Chairman

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