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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JODHPUR BENCH  
AT JAIPUR

December 21, 1990

TA 629 of 1986  
(Writ No.1504/84)

Gursharan Singh Ahluwalia  
Mr. J.K.Kaushik

Petitioner  
Counsel for the petitioner

VERSUS

Union of India & others  
Mr. R.N. Mathur

Respondents  
Counsel for the respondents

CORAM

THE HON'BLE MR. KAUSHAL KUMAR

VICE CHAIRMAN

THE HON'BLE MR. T.S. OBEROI

JUDICIAL MEMBER

KAUSHAL KUMAR, V.C.

This is a Civil Writ Petition No.1504/84 filed in the High Court of Rajasthan which now stands transferred to this Tribunal by virtue of the provision of Section 29(1) of the Administrative Tribunals Act, 1985.

2. Applicant was initially appointed as APWI which is now redesignated as PWI Grade III. His seniority in the Zone was shown at serial No.294 in the said Grade. Subsequently he was transferred to Jaipur Division at his own request and his seniority was changed to serial No.473A as per provisions para of/312 of the Railway Manual vide order dated 2.8.84 filed as Annexure-A.3 with the Writ Petition. The grievance of the petitioner is that for purposes of promotion to higher post on Zonal basis his seniority should be reckoned as per provisions in para 303 of the Manual.

Both the counsel state that  
3. [the facts of the case are covered by the judgment of this Tribunal dated 19.1.90 in TA 495/86. The relevant

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para from the said judgment is extracted below:-

"13. The point for consideration is whether the seniority of an incumbent in the zone as per rule 303 is obliterated completely for all purposes when he is transferred to another division on his own request and assigned the seniority in accordance with rule 312 of the Manual. The initial seniority is assigned on the basis of a person's placement in the merit list, as determined by the recruiting authority and this inter-se seniority is retained even after his/her allocation to a particular division which is done in the public interest or the interest of the administration. The rationale of rule 312 is that when a person is transferred to a particular Division on his own request, it is the individual's interest which prevails and therefore, he has to be assigned seniority at the bottom of the seniority in the division. The rationale of rule 312 is re-conciliation between public interest and individual's interest, the interest of administration on the one hand and that of the individual on the other hand but in this process when the incumbent's seniority is submerged or depressed below all those who are already working in the division, the individual does not completely lose his identity in the zone for which the initial recruitment was made. His past service continues to be counted for purposes of his pay and increment etc. It is only for purposes of confirmation and promotion etc. in the new division that the revised seniority becomes relevant and therefore, when promotions are made on the basis of inter-se seniority in the zone, the original inter-se seniority based on merit list in the zone must prevail. There the public interest is not infringed by the interest of other incumbents in the zone or the Division. This position was in fact recognised by the respondents railways through the contents of their letter dated 1.2.1980 (Annexure-A.6/18) and GM's circular dated 25.7.69 (Annexure-A.6/33)."

4. The learned counsel appearing on both sides concede that a similar direction may be given as in the aforesaid case. We accordingly direct that the applicant's seniority for purposes of promotions on Zonal basis shall be determined in accordance with rule 303 of the Indian Railway Manual. However, if any promotions are made within the division to which he was transferred at his own request the seniority will be determined as per provision of rule




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312 of the Manual. The case of the applicant for promotion to higher post shall be considered by the respondents in the light of the above direction and he shall be given consequential benefits accordingly.

  
*T. S. Oberoi* 21.12.90  
(T.S.Oberoi)  
Judl. Member

*Kaushal Kumar* 21.12.90  
(Kaushal Kumar)  
Vice Chairman