

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
jaipur.

Date of Decision: 13.9.93.

TA 1415/86
(CS 127/85)

PREM NARAIN & ANR. ... APPLICANTS.

v/s.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

HON. MR. GOPAL KRISHNA, MEMBER (J).
HON. MR. O.P. SHARMA, MEMBER (A).

For the Applicants ... SHRI J.K. KAUSHIK.

For the Respondents ... SHRI S.S. HASAN.

PER HON. MR. GOPAL KRISHNA, MEMBER (J).

The plaintiffs, Prem Narain and Kanhaiya Lal (hereinafter referred to as the applicants) had filed a Civil Suit in the court of the learned Munsif, Alwar, on 1.4.85 against the defendants (hereinafter referred to as the respondents) for a declaration that the seniority list dated 17.12.83 is void and ineffective and the applicants be allowed to work and they be promoted on the basis of the seniority list circulated earlier on 27.6.78. The applicants also prayed for permanent injunction restraining the respondents from taking any action in pursuance of the seniority list dated 17.12.83. The suit was transferred to this Tribunal and registered as TA 1415/86.

2. We have heard the learned counsel for the parties and have carefully perused the records. The applicants

came on transfer from the Rajkot Division to the Jaipur Division of the Western Railway on their own request vide an order dated 24.10.74 after having agreed to accept bottom seniority in the Jaipur Division. A seniority list published on 27.6.78 shows these applicants to be junior to all permanent, officiating and temporary Assistant Station Masters then working in the Jaipur Division. Representations were received by the Railway Administration objecting to the seniority granted to the applicants. One ground taken was that the applicants had been assigned seniority above the probationary Asstt. Station Masters then working in the Jaipur Division in spite of the fact that the applicants had come on transfer to the Jaipur Division at their own request after they had agreed to accept bottom seniority in the Jaipur Division. After considering these representations, the seniority list circulated on 27.6.78 was withdrawn and a fresh seniority list was issued on 17.12.83, which is under challenge in this petition. As per this revised seniority list, the applicants were placed below all permanent, temporary, officiating and probationary Assistant Station Masters working in the Jaipur Division on the dates of transfer of the applicants to the Jaipur Division. The applicants aggrieved are that by the revised seniority list they have been placed below even probationary Assistant Station Masters.

3. The learned counsel for the applicants has drawn our attention to para 312 of the Indian Railway Establishment Manual Vol.I (Revised Addition 1989). According to this para, the seniority of Railway servants transferred ^{on their own request} from one Division to another should

be allotted below that of the existing, confirmed, temporary and officiating Railway servants in the relevant grade in the promotion group in the new establishment, irrespective of the dates of confirmation or length of officiating or temporary service of the transferred Railway servants. The argument of the learned counsel for the applicants is that this Rule does not make any mention about the transferred officials being placed even below the probationary officials of their grade already working in the Division to which they have been transferred. He has, therefore, pleaded that the assignment of seniority to the applicants below the probationary Assistant Station Masters is illegal.

4. The provisions of para 312 show that the seniority to be assigned to the officials transferred at their own request shall be below that of all the existing, confirmed, temporary and officiating Railway servants in the relevant grade. A probationary official is appointed against a permanent vacancy. His status cannot in any case be lower than that of a temporary or officiating employee. Even if there is no specific mention about assignment of seniority to a transferred official vis-a-vis a probationer, yet the official transferred at his own request cannot be assigned seniority above a probationary official of the same grade.

5. We, therefore, find no merit in the TA and the same is dismissed, with no order as to costs.

(O.P. SHARMA)
MEMBER (A)

Gopakrishna
(GOPAL KRISHNA)
MEMBER (J)