

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 31.1.1994.

OA 1026/92
(OA 336/87)

PHOOL CHAND ARYA ... APPLICANT.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).
HON'BLE MR. P.P. SRIVASTAVA, MEMBER (A).

For the Applicant ... NONE.

For the Respondents ... SHRI MANISH BHANDARI.

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

Applicant Phool Chand Arya in this application u/s 19 of the Administrative Tribunals Act, 1985 has prayed that the seniority list illegally prepared and issued vide letter No.ET/1030/4/(ATNLs) dated 20/30.4.87 at Annexure A-9 may be quashed, the respondent be directed to consider the applicant for promotion to the post of Chief Train Controller as also for a direction to the respondents not to consider the cases of Shri R.S. Mehta and other junior persons for promotion to the post of Chief Train Controller. He has also prayed that the respondents be directed not to conduct any selection.

2. We have heard the learned counsel for the respondents. None is present on behalf of the applicant in spite of the fact that the case was listed for hearing today. None was present on behalf of the applicant on the last several dates of hearing also. We, therefore, proceed to decide the case on merits.

3. The salient features of the case are that the applicant was promoted on adhoc basis to the post of Deputy Chief Train Controller in the Kota Division of the Western Railway w.e.f. 5.6.1983. He was promoted to this post against the short call of Scheduled Caste vacancy which was distributed/allotted by the Headquarters office while decentralising the post of Deputy

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Chief Train Controller, as alleged by him. The contention of the applicant is that since he was already holding the post from 5.6.83 against the reserved quota, he could not have been superseded without assigning any reason by the competent authority. The applicant has categorically stated that persons much junior to him namely S/Shri R.S. Mehta, M.R. Mehta, Udharam, Dan Behari Lal, Gurdev Singh, V.P. Dhawan, Ram Bali Ojha, R.P. Saxena, Harbanslal Sharma, R.K. Dixit, R.C. Malhotra I.K. Bhatnagar, Harjeet Singh and S.K. Singh were given non-selection grade much after the applicant and therefore the applicant should be ~~max~~^{ranked} senior to them. On the contrary, the respondents contend that for the purpose of promotion to the post of Deputy Chief Train Controller it was necessary for the applicant to pass the training course and only on completion of the training course the applicant could become eligible for substantive promotion to the post of Deputy Chief Train Controller scale Rs.700-900. The promotion of the applicant w.e.f. 5.6.83 was merely adhoc by way of stop-gap arrangement because regularly promoted candidates were not available. However, the Railway Board vide communication dated 22.10.85 had granted exemption from training, as a result whereof persons named in para (E) at page 13 of the OA and the applicant were benefitted w.e.f. 1.1.84. It is pertinent to note that these persons, as are mentioned in para (E) at page 13 of the OA, except Shri R.S. Mehta have not been impleaded as respondents in the OA by the applicant. In view of the fact that the applicant is claiming seniority over them, the applicant's challenge to the impugned seniority list ^{without impleading them} is therefore unsustainable. The learned counsel for the respondents has stated before us that the applicant has already been promoted to the post of Chief Train Controller. The grievance of the applicant has been substantially redressed. The present OA, therefore, does not survive for consideration.

4. In the result, the OA is dismissed with no order as to costs.

(P.F. SHIVASTAVA)
MEMBER (A)

C.Krishna
(GOPAL KRISHNA)
MEMBER (J)