

17 (18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.1096/92

Date of order: 19.2.1997

Lallu Lal : Applicant

Vs.

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.

2. Divisional Railway Manager, Western Railway, Jaipur.

... Respondents.

Mr.P.P.Mathur-Brief holder of Mr.R.W.Mathur for the applicant.

Mr.Manish Bhandari, Counsel for respondents.

CORAM:

Hon'ble Mr.Gopal Krishna, Vice Chairman

Hon'ble Mr.O.P.Sharma, Administrative Member.

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, applicant Lallu Lal has called in question the order dated 19.6.92 (Annex.A1) by which his name was inserted in between sl.No.24 and 25 in the seniority list of Machinist Gr.III.

2. The applicant's case is that he was appointed as Artisan Khalasi in the Diesel Shed of the Western Railway at Abu Road. He was promoted as Machinist Gr.III in the year 1977. The seniority list of Machinists maintained prior to 1985 was a common seniority list for all those who were posted in the Diesel Sheds at Ajmer and Abu Road. Thereafter, a policy decision was taken whereby the seniority of Machinists posted at Phulera was bifurcated from the seniority of Machinists posted in the Diesel Shed at Abu Road. It is pleaded by the applicant that he was transferred to Diesel Shed at Phulera when the post of a Machinist was transferred to Phulera and since the applicant was transferred in the exigency of service he should have been assigned seniority amongst Machinists at Phulera at a proper place and the assignment of bottom

Chukne

seniority is illegal, being contrary to the provisions contained in para 311 of the Indian Railway Establishment Manual (IREM). It is also stated by the applicant that it was at his instance that the respondents placed the applicant at Sl.No.12 in the seniority list of Machinist Gr.III at Annex.A3 which was issued on 13.8.1991. However, the respondents have placed the applicant in between Sl.No.24 and 25 of the seniority list at Annex.A1 dated 19.6.92.

3. On the contrary, the respondents have stated that a post of Machinist Gr.III in the scale of Rs.950-1500 was transferred to Diesel Shed Phulera on 9.1.1986 and the applicant was transferred to the Diesel Shed Phulera at his own request. It is also stated by the respondents that the applicant was assigned wrong seniority by an order dated 13.8.91 and therefore, it was corrected and the seniority position of the applicant was revised and he was placed in between Sl.No.24 and 25 by an order dated 19.6.92. It is further stated by the respondents that since the applicant was transferred at his request he was rightly assigned seniority at the bottom and accordingly he was placed at Sl.No.26 in the seniority list which was issued on 25.7.1988. Thereafter, a provisional seniority list was issued placing the applicant at Sl.No.12. It is categorically stated by the respondents that the seniority position was revised and the applicant was placed between Sl.No.24 and 25 as per order dated 19.6.92.

3. We have heard the learned counsel for the parties and have carefully perused the record. The question to be determined relates to the assignment of seniority to the applicant. The contention of the applicant is that since he was transferred in the interest of administration on the transfer of post from Abu Road to Phulera, he should have been assigned seniority among Machinist Gr.III at an appropriate place taking

*Chakravarti*

19

9/

into consideration the length of his service on the post and other factors. He also stated that he was correctly assigned seniority by an order dated 13.8.91 (Annex.A3) but the seniority list at Annex.A3 in which the applicant was assigned seniority at Sl.No.12 is merely provisional in nature and in that objections/representations were called for from persons aggrieved by the seniority position shown therein. The seniority position assigned to the applicant was thereafter revised and the applicant was placed in between Sl.No.24 and 25 by order dated 19.6.92 (Annex.A1). It is evidenced by Annex.A2 dated 28.1.86 that the applicant had moved an application dated 9.11.85 requesting for his transfer from Abu Road to Phulera and on 9.1.86 when a post of Machinist Gr.III was transferred from Abu Road to Phulera, the applicant was transferred as per his request to Phulera by an order dated 28.1.86, which was not challenged by the applicant. The applicant by that order dated 28.1.86 was not allowed any transfer allowance merely because his transfer to Phulera was made at his request. Since the applicant stood transferred to Phulera at his request, he could be assigned bottom seniority in terms of para 312 of the IFEM, Vol.I, Revised Edition 1989.

4. In the circumstances, we are of the view that the applicant was correctly assigned seniority amongst Machinist Gr.III by the impugned order dated 19.6.1992 (Annex.A1).

5. In the result, we find no merit in this application. It is, therefore, dismissed. No order as to costs.

O.P.Sharma  
(O.P.Sharma)

Administrative Member.

Gopal Krishna  
(Gopal Krishna)

Vice Chairman.