

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR.

✓ O.A.No.435/90

Date of order: 16.2.93

Govind Ballabh Sharma & Ors. : Applicants

Mr.S.K.Jaion : Counsel for applicants  
Mr.J.K.Kaushik : Counsel for respondents  
No.4 - 13.  
Mr.Manish Bhandari : Counsel for respondents  
No.1 - 3.

O.A.No.133/91

Kishan Singh Yadav : Applicant

Mr.J.K.Kaushik : Counsel for applicant  
Mr.S.K.Jain : Brief Holder of counsel  
for respondent No.4  
Mr.G.S.Bafna : Counsel for respondents  
No.1-3

O.A.No.143/91

R.G.Gautam & V.K.Sharma : Applicants  
Mr.J.K.Kaushik : Counsel for applicant  
Mr.S.K.Jain : Brief Holder of counsel  
for respondent No.4  
Mr.G.S.Bafna : Counsel for respondent  
No.1-3.

O.A.No.144/91

Mahendra Kumar Gupta : Applicant  
Mr.J.K.Kaushik : Counsel for applicant  
Mr.S.K.Jain : Brief Holder of counsel  
for respondents No.4-6  
Mr.G.S.Bafna : Counsel for respondent  
No.1-3.

Versus

Union of India & Others : Respondents

CORAM

Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

Hon'ble Mr.B.B.Mahajan, Member (Adm.).

PER HON'BLE MR.B.B.MAHAJAN MEMBER (ADM.).

Govind Ballabh Sharma and 14 others had filed an application registered as O.A. No.435/90 challenging the seniority list of Guards Grade-C published by the D.R.M. Western Railway, Kota vide letter dated 1.6.90 (Annexure:A1 to this O.A). Kishan Singh Yadav in O.A No.133/91 has challenged the decision taken by the management in the meeting held with the representatives

of the Trade Unions on 8.1.91 to recast the seniority list (copy of minutes at Annexure:A1 to this O.A). R.G.Gautam and V.K.Sharma in O.A. No.143/91 have also challenged this decision taken in the meeting with the Trade Unions and sought modification in the seniority list issued on 1.6.90. Mahendra Kumar Gupta in O.A. No.144/91 has challenged the order of the General Manager, Western Railway dated 21.5.90 (Annexure:A1 in this OA) by which the seniority list dated 1.6.90 was ordered to be modified. He has also challenged the decision taken in the meeting with the trade Unions on 8.1.91 and sought modification in the seniority list issued on 1.6.90. Since these O.As involve common questions of law and facts, these are being disposed of by this common order.

2. The facts of the case are that the results of examination for promotion to the post of Guard Gr.C were published by the DRM, Kota vide letter dated 4.6.77 (Annx.2 in O.A No.435/90). According to rules, after qualifying the test, qualified candidates have to be sent for training in the Zonal Training School, Udaipur. Due to exigencies of service, however, the qualified candidates were deployed as Guard Gr.C without their being sent for training. Orders for ad hoc promotions were accordingly issued. They were subsequently sent for training in batches but they were not sent in order of their seniority. The inter se seniority between the direct recruits and departmental promotees is governed by the letter of the Railway Board dated 16.11.61, a copy of which has been enclosed as Annexure:A6 in O.A No.435/90. These instructions have been incorporated in Rule 302 of the Indian Railway Establishment Manual Vol.I, 1989 Edition.

As per this rule in categories of posts like Guards Gr.C partially filled by direct recruitment and partially by promotion, the criterion for determination of seniority should be the date of regular promotion after due process in the case of promotees and the date of joining the working post after due process in the case of direct recruits, subject to maintenance of inter se seniority of promotees and direct recruits among themselves. In the case of the post of Guard Gr.C, the regular appointment and promotion is made after passing training in Udaipur School. Since, as mentioned above, the persons from among promotees who had qualified in the selection were not sent for training in the order of seniority, a literal implementation of this rule would lead to the persons who were senior in the feeder cadre and had also passed the test on same date being rendered junior to their colleagues merely on the ground that they were sent for training later. In order to meet this situation, the clarification was issued by the General Manager, Western Railways in his letter dated 21.5.90 (Annx. A14 in O.A 435/90). It was clarified in that letter that where seniors have not been sent for training on administration ground only such cases may be reviewed and their notional seniority may be protected vis-a-vis their juniors who have been given seniority from the date of passing the training. Applicant M.K. Gupta, has challenged this interpretation on the ground that the General Manager had no authority to deviate from the orders issued by the Railway Board. This plea, however, does not have much force. The General Manager's letter is not inconsistent with the instructions of the Railway Board. It only clarifies

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the position which was not visualised in the Railway Board's instruction where a senior person for administrative reasons has been sent for training later than his juniors. The contention of the applicants Kishan Singh Yadav & Ors. that the action of the respondents in recasting the seniority is bad as it is being done in pursuance of discussions with the Trade Unions in the meeting also does not have much force as the seniority in fact is being recast in accordance with the instructions issued by the General Manager. The seniority of course, will have to recast strictly in accordance with the instructions given by the General Manager i.e. only those cases where the senior persons could not be sent on training on administrative ground would get the benefit of notional seniority as allowed to the junior persons who had been sent for training earlier. Any decision in the meeting with the Unions inconsistent with the Railway Board's instruction as clarified by the General Manager would have no force.

4. In view of the above, we dispose of these applications with the direction to the respondent Railway authorities to recast the seniority of Guard Gr.C circulated by letter dated 1.6.90 in accordance with the rule as contained in Rule 302 of the Indian Railway Establishment Manual Vol.I, 1989 Edition as clarified by the General Manager, Western Railway letter dated 21.5.90. It is clarified that the benefit of notional fixation of seniority as visualised in the General Manager's letter dated 21.5.90 will be available only to those employees who had been sent for training at a later date on administrative ground and not to

those who had been sent on training later because of any personal reasons. The benefit would also not be available to those who did not pass the examination in the Training School in the first attempt. The seniority list should be recast in the light of these directions as expeditiously as possible by following the due procedure. The O.As are disposed of accordingly. Parties to bear their own costs.

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(B.B. Mahajan)  
Member (Adm.).

(D.L. Mehta)  
Vice Chairman.