

## (ORDERS OF THE TRIBUNAL)

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Heard the Counsel for the applicant and the Standing Counsel for the Railways for the respondent.

This Review Application is filed for

reviewing our Order dated 23-9-1987 in O.A.106/87

on various grounds as will be detailed hereunder.

2. The facts have already been narrated by us in our Order dated 23-9-1987 and would not, therefore, require reiteration. The main ground on which the Learned Counsel for the applicants seeks review of our earlier order is that the view taken by us in the Judgement dated 23-9-1987 that the High Court in W.P.4058/82 dated 20-10-1984 was to be applied only to the petitioners therein and not as a judgment in rem to all casual labourers similarly situated. The Learned Counsel has pointed out that High Court in ~~xxxxxxxxxxxx~~ the above stated Judgment has observed as follows :-

"The learned Standing counsel also submitted that certain persons may be affected by these promotions and since they are not made parties, no relief can be granted to the Petitioners.

We are unable to appreciate this contention as well. According to the learned counsel, himself, no seniority list was prepared and published/communicated prior to the aforesaid amendment. If so, there is no occasion now for revising any such seniority list. Seniority list has to be prepared now and what we are doing now is to lay down the principle which should govern the preparation of such a list. It is indeed a reiteration of the decision of this court already rendered. We are unable to see what complication can this reiteration of an existing principle give rise to.

Accordingly, the Writ petition is allowed with the following direction. The petitioners are entitled to count their seniority from the date of their completion of six months' continuous service, i.e., from the date they acquired temporary status in the category. A seniority list shall accordingly be prepared, published and communicated. It is clarified that the amended paragraph 2511(a) of the Indian Railways Establishment Manual has no application to the Petitioners. There shall be no order as to costs."

In pursuance of the Judgment of the High Court, the Railways prepared a seniority list on 19-6-1986 and the applicants found that persons junior to them have been shown as seniors to them in the revised seniority list and the applicants therefore had a cause of action consequent to this preparation of the revised seniority list and have a right to approach this Tribunal. He also submitted that the High Court had laid down a

principle for the preparation of the seniority list and the respondents were bound to prepare seniority list in accordance with the principle irrespective of whether the applicants were parties to the earlier Writ Petition before the High Court or not. We find considerable force in the submission made by the Learned Counsel for the applicant and this point had escaped notice while disposing of the Original Application by us on 23-9-1987. Merely on the ground that the applicants were not parties to the earlier litigation before the High Court in W.P.4058/82, we had dismissed the application as it was time-barred.

✓ In view of the submissions made by the Learned Counsel for the application with reference to the Judgment of the High Court extracted above, the applicants cannot be denied of the relief asked for ~~as~~ on grounds of delay. The Judgment of the High Court would be equally applicable to the applicants as it is applicable to the petitioners in W.P.4058/82. We would, therefore, direct that the respondents shall prepare the seniority list in accordance with the principle laid down by the

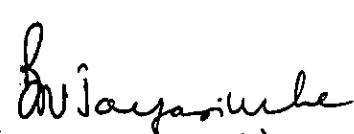
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- page four -

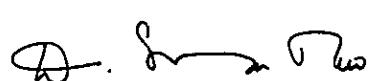
High Court in respect of all the persons concerned.

We had passed similar orders in D.A.57/87 also vide  
our Order dated 6-2-1987.

3. The Review Application is accordingly allowed,  
notifying  
with the above directions. The process of preparing and/  
seniority list as directed in the preceding paragraph  
shall be completed within a period of three months  
from the date of receipt of this Order. There will  
be no order as to costs.

  
B.N. Jayasimha

(B.N. JAYASI MHA)  
Vice-Chairman.

  
D. Surya Rao

(D.SURYA RAO)  
Member (Judl.)

2-11-1987.

RSR°