

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA no. 548/93 : Date of order 19.9.94

N.L. Mehar : Applicant

V/s

Union of India & Others : Respondents

Mr. S.K. Jain : Counsel for the applicant

None present for the respondents

CORAM

Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Miss Usha Sen, Member (Administrative)

PER HON'BLE MISS USHA SEN, MEMBER (ADMINISTRATIVE)

In this application the applicant has challenged Annexure A-1 which is dated 30.3.93 and by which the seniority of the applicant has been lowered from serial no. 46 to serial no. 49 in the seniority list of Goods Guard, scale Rs. 1200-2040. It seems from the reply of the respondents that the applicant was promoted as Goods Guard 'C' on 30.3.78. The promotion of Goods Guard 'C' is made through a written examination by allowing employees from different categories like TMC, Commercial Clerks, Brakesman, Switchmen and T.Cs and seniority in the select list is maintained in terms of para 320 of Chapter III of IRSM Vol. I (1989 Edition).

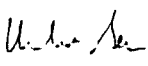
2. The respondents have stated in the reply that an error was committed in assigning seniority to the applicant vis-a-vis the respondent no. 3, namely, J.S. Meena in this select list of promotion to Goods Guard. The respondent no. 3 filed an appeal and the Union also took up the matter. This ^{wrong} assignment of seniority was reflected in the seniority list published in the year 1990 as well as in the year 1993. They have further stated that merely because the applicant was assigned ^{wrong} ~~lower~~ seniority ~~that~~ by error, ^{that} is no reason that the error should not be corrected even if the wrong seniority remained unchanged for 16 years. This has been mentioned in para 4.5 of the reply.

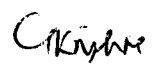
3. We have heard the learned counsel for the applicant. None is present on behalf of the respondents in spite of the fact that notices were sent and the case was listed for hearing today.

4. The applicant stated that seniority of the applicant was lowered without giving him an opportunity to show cause as to why such an action should not be taken. He has also cited a Supreme Court judgement in which it has been held that seniority which remained unchallenged for a long time, should not normally be disturbed.

5. Considering the facts of the case as stated above, we are of the view that if the seniority of the applicant vis-a-vis the respondent no. 3 is changed as per the impugned order dated 30.8.93 at Annexure A-1, the applicant may be given an opportunity to be heard regarding his case in the matter and decision may be taken in accordance with the rules and law by the respondents after hearing him. Appropriate action in this behalf be taken by the respondents within three months from the date of receipt of a copy of this order.

6. The OA is disposed of accordingly, with no order as to costs.


(USHA SEN)
MEMBER(A)


(GOPAL KRISHNA)
MEMBER (J)