

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.106/93

Dt. of order: 21.7.94

Hira Lal Sen

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr.R.N.Mathur

: Counsel for the Applicant

Mr.Manish Bhandari

: Counsel for respondents

CORAM:

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

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.).

Applicant Hira Lal Sen has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, praying that the order Anxx.A1 dated 14.7.92 by which Shri P.P.Pandey, respondent No.4 was promoted as TTI scale Rs.1600-2660 may be set aside and it may be declared that Shri P.P.Pandey is junior to the applicant in the cadre of TTI. He has sought a further declaration that he is entitled to get promotion on the post of TTI w.e.f. the date his juniors were promoted to the said post of TTI with all consequential benefits.

2. The applicant joined as TC in Kota Division of Western Railway on 24.7.64, was promoted as TTE on 18.5.78 and as HTTE on 1.1.84. (He was) promoted as TTI on 19.10.92. Shri P.P. Pandey, respondent No.4 was appointed as TC in the same Division on 24.11.69, as TTE on 18.5.78 and as HTTE on 1.4.87. He was granted promotion as TTI on 14.7.92. The case of the applicant is that upto the stage of promotion to the post of HTTE he was senior to respondent No.4 all through out and in every post held by both of them. However when it came to promotion to the post of TTI, the respondent No.4 was granted promotion on 14.7.92 whereas the applicant was granted promotion on 19.10.92, inspite of his being senior to the respondent No.4. Anxx.A-5 is the partial seniority list of TTEs, in so far as it has relevance to the present applicant. In this list, one Shri Hari Shanker belonging to S.C community appears at Sl.No.102, the applicant, also belonging to an S.C community, appears at Sl.No.103 and

category  
respondent No.4 Shri P.P.Pandey, a General candidate appears at S1.No.143. It is an admitted position that the same order of seniority has been maintained in the post of HTTE also. The applicant's grievance is that in spite of his being senior to respondent No.4 he has been granted promotion on a date subsequent to the one on which the respondent No.4 was granted promotion.

3. The respondents in their reply have stated that seniority was gained by the applicant by jumping the queue as an S.C candidate. As per the judgments given by the Tribunal in certain cases, an employee who gets seniority by jumping the queue as an S.C candidate would not be promoted to the next higher post unless he gets an opportunity to promotion as per his seniority in the base grade. Promotion to the applicant as HTTE was granted on the basis of his being an SC candidate. Since the post of HTTE was classified as a selection post and since the respondent No.4 was graded as outstanding in that selection, he is entitled to higher seniority. The promotion to the applicant as well as to respondent No.4 was granted as per the directions contained in the General Manager's circular dated 10.1.91 (Annex.51). Further, according to the respondents, Shri Harishankar is also an S.C candidate, is senior to the applicant and therefore, the applicant has no claim for promotion prior to the date of promotion of Shri P.P.Pandey ignoring the claim of Shri Harishankar.

4. We have heard the learned counsel for the parties and have gone through the records including the rejoinder filed by the applicant. It is an accepted position that the applicant is senior to respondent No.4 in the post of HTTE, regardless of the basis on which promotion to the post of HTTE was granted to the applicant. The Full Bench of the Tribunal sitting at Hyderabad and Calcutta, have held in the following two cases that an employee is entitled to reckon his seniority from the date of his appointment to a particular post, regardless of whether he was promoted to the said post on the basis of reservation or on the basis of being a general candidate;

- a) V. Lakshminarayanan Vs. Union of India & Ors. 1992 (8) SLR 129 (CAT) - Hyderabad.
- b) Durgacharan Halder & Ors. Vs. Union of India & Ors. 1994 (3) SLR 126 (CAT) - Calcutta.

Therefore, the applicant would be senior to respondent No.4 in the seniority position in the post of HTTE for all purposes. Of course Shri Harishankar would be senior both to the applicant and respondent No.4 in the said seniority list.

5. The promotion to the post of TTI is on a non-selection basis. Once seniority position described in the preceding paragraph is accepted it would <sup>follow</sup> that the applicant would be entitled to promotion to the post of TTI before such promotion is granted to respondent No.4. The respondents were therefore, not justified in granting promotion to respondent No.4 before granting it to the applicant. In the circumstances of the present case we direct that the applicant shall be treated as senior to respondent No.4 in the post of TTI. However the right of Shri Harishankar who is senior to both the applicant and respondent No.4, shall not be affected.

6. The O.A. stands ~~disposed~~ <sup>disposed of</sup> accordingly with no order as to costs.

(O.P. Sharma)  
Member (A).

(Gopal Krishna)  
Member (J).