

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 7/12/2001

OA No.165/1994

Ramesh Choudhary s/c Shri Sada Nand Choudhary r/c Railway
Bungalow No. 493, Ramganj, Ajmer working as Senior
Electrical Chargeman, Dy. CEE, Workshop, WR, Ajmer.

..Applicant

Versus

1. Union of India through the General Manager,
Western Railway, Churchgate, Bombay.
2. General Manager, Churchgate, Western Railway,
Bombay.
3. Deputy C.E.E., Railway Power House, Western
Railway, Ajmer.
4. Shri Sunil Kumar Saxena, Sr. Electrical
Chargeman, C/o Dy. CEE (Workshop), Railway
Power House, WR, Ajmer.

.. Respondents

Mr.S.K.Jain, counsel for the applicant

Mr. R.G.Gupta, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. A.P.Nagrath, Administrative Member

ORDER

Per Hon'ble Mr. A.P.Nagrath, Administrative Member


Applicant and respondent No.4, Shri Sunil Kumar Saxena, were appointed after selection made by the Railway Recruitment Board as Electrical Chargeman in 1980. The applicant alongwith two others were allotted Ajmer Workshop whereas respondents No.4 and two others were allotted Ajmer Division. It appears that for want of



vacancies the persons allotted to Ajmer Division could not be accommodated in the Division and were referred back to the railway headquarters in Mumbai. All these persons were sent for necessary training, which is pre-requisite before their being posted on the working post. The applicant after having completed his training was posted in Ajmer workshop on 2.6.1982. Shri Sunil Kumar Saxena was recalled before completing the full duration of the training as per the requirement of the administration. Shri Saxena then made a request for his transfer to Ajmer and his request was acceded to. A seniority list of Electrical Chargeman grade Rs.425-700/1400-2300 was issued by the Dy. CEE (W) Ajmer on 13th June, 1987 (Ann.A4) in which the applicant has been shown senior to Shri Saxena. Another seniority list was issued for the grade Rs. 1600-2660, in this again the applicant has been shown to be senior to Shri Saxena. By letter dated 22.3.94 (Ann.A1) the office of General Manager, Western Railway wrote to the General Secretary, WREU mentioning therein that the General Manager has decided to give higher seniority to Shri Saxena after taking the entire position into account. The applicant is aggrieved with this letter and has filed this OA with a prayer that the impugned order dated 22.3.94 (Ann.A1) be quashed and the respondents be restrained from operating the said letter.

2. We have perused the entire record brought before us and have heard the learned counsel for the parties.


3. We must say, at the outset, that the learned



counsel on either side could not give us any definite information whether there has been any implementation of the impugned order. If there was any implementation of the said order dated 22.3.94, the same would have been implemented by revising the seniority list. No information was available with the learned counsel on this aspect. The impugned letter itself state that "GM's decision is being shortly communicated to the concerned authorities shortly". What has been the fate of this advice to the WREU, is not known.


4. In this background, it cannot be said that any order has been issued by which the applicant has been adversely affected. Be that as it may, we have gone through the records and given our active consideration to the arguments of the learned counsel. The entire controversy revolves around interpreting the letter issued by the Deputy CEE (W) Ajmer dated 25.6.82. This letter has been filed at Ann.A3 by the applicant and as Ann.R2 by official respondents and as Ann.R4/3 by the private respondent Shri Saxena.

5. The learned counsel for the applicant referred to item 7 of this letter to contend that Shri Saxena reported to the office of Dy. CEE (W), Ajmer only on 17.6.82 and that his transfer was on his own request to this unit. Thus, the learned counsel contended that he cannot claim seniority over the applicant who had already been posted on 2.6.82. The learned counsel also referred to the seniority list issued in the year 1987 and 1989 to say that all along this position has been accepted by the



respondents and there is no reason that the same be changed without adequate justification.

6. The learned counsel for the respondents disagreed with the learned counsel for the applicant and stated that the date of reporting of Shri Saxena is 2.6.82 and not 17.6.82. That has also been the stand of Shri Saxena in his reply. We have seen this letter and especially the language of the order in respect of Shri Saxena. It has been stated that Shri Saxena has been transferred from CCG to this District (i.e. Dy. CEE (W) Ajmer) on his own request and he is posted under SS/TL against his post of ELC ADI operating at AII as work charged post. (emphasis supplied). In the note below, it has been clarified that Shri Saxena will be charged against this post from 1.6.82 to 16.6.82 he will be charged against his original headquarter's post (emphasis supplied). We are leaving the further portion which states that Shri Saxena was on leave from 16.6.82 and reported to this office by..., the dates of this were disputed by either side as 17.6.82 or 2.6.82. We consider this controversy as irrelevant. It is not in dispute that Shri Saxena has not been posted against the post of any cadre under the control of Dy. CEE (W) Ajmer right upto 16.6.82. The seniority in a cadre can only count from a date a person is posted to that cadre. Upto 16.6.82 Shri Saxena was not posted to the cadre of Ajmer Workshop, but was only against the post of headquarters. Under the said circumstances there is no reason why he should be treated as senior to the applicant. Because of these facts available on record, we find that intention contained in

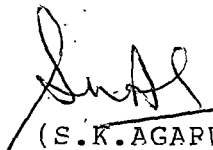


the impugned letter dated 22.3.94 (Ann.A1) is not acceptable. In case the respondents have acted on this letter, the action is not sustainable. In face of the facts and circumstances of this case, the applicant cannot be treated as junior to Shri Saxena.

7. We, therefore, allow this CA and direct the respondents to continue to treat the applicant as senior to Shri Sunil Kumar Saxena. The position assigned to the applicant vis-a-vis Shri Saxena in the seniority list dated 13.6.87 and 22.5.89 shall be maintained. No order as to costs.


(A.P.NAGRATH)

Adm. Member


(S.K.AGARWAL)

Judl.Member