

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.295/94

Date of order: 30/8/2000

Suresh Vikram Singh, S/o Shri Vishwanath Singh, R/o House of Shri Radhey Shyam Sharma, Behind Subji Mandi, Phulera, presently working as Diesel Assistant in the O/o Loco Foreman, Phulera Jun.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Railway, Church Gate, Mumbai.
2. Divisional Railway Manager, W.Rly, Jaipur.
3. Divisional Mechanical Engineer (Estt), Western Railway, Jaipur.
4. Sh.Babu Lal Ram Chandra, S/o Shri, presently posted as Diesel Assistant, Phulera.

...Respondents.

Mr.P.P.Mathur, Proxy of Mr.R.N.Mathur - Counsel for applicant.

Mr.S.S.Hasan - Counsel for respondents.

CORAM:

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

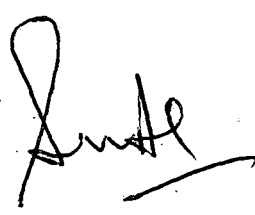
Hon'ble Mr.N.P.Nawani, Administrative Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 19085, the applicant makes the following prayers:

- i) to declare that the applicant is entitled to get seniority among his batch-mates appointed on the post of Diesel Assistant in pursuance of notification issued in the year 1985 and seniority list may be revised by placing the applicant's name at Sl.No.210 in the aforesaid seniority list (Annx.A1).
- ii) the promotees who are appointed against subsequent vacancies may be declared junior to the applicant.
- iii) any other appropriate relief as ordered by this Tribunal.

2. In brief facts of the case as stated by the applicant are that in pursuance to the advertisement issued in the year 1985 by the Railway



Recruitment Board, Ajmer, the applicant was declared successful as per the result declared on 13.1.88 for the post of Diesel Assistant and his name appeared at Sl.No.6 in order of merit. It is stated that the applicant belongs to a village in Sultanpur District of U.P and he received the information by post on 26.7.88 to attend the office of DRM Jaipur on 22.7.88. The applicant reported in the office of DRM Jaipur on 27.7.88 but office of DRM Jaipur directed him to appear for medical examination. Other candidates who reached late were also directed to appear before the Medical Board for medical examination. It is stated that the medical examination of the applicant took about 16 days and the applicant was declared medically fit on 12.8.88. It is further stated that because of medical examination was not done the applicant was not sent for training commencing from 1.8.88. The applicant was again called for the next training programme but unfortunate he received the information by telegram on 17.11.88 to attend the office of DRM Jaipur on 31.10.88, therefore, the applicant was not sent for the training commencing from 29.10.88. Ultimately, the applicant was sent for training w.e.f. 1.4.89 at Zonal Training School, Jaipur and after completing the training successfully he joined the training programme at Abu Road in August 1989 and after completing that training successfully he was posted as Diesel Assistant on 24.4.90. It is stated that persons who selected as Diesel Assistant alongwith the applicant were sent for training earlier to the applicant and they were appointed in the month of March 1989 and they have been assigned higher seniority in the seniority list of Diesel Assistant. In the seniority list the name of the applicant finds place at Sl.No.484 whereas his batchmates found placed at Sl.No. 194 to 210 and they have been promoted to higher scale. The applicant filed representation for redressal of his grievance but with no avail. Therefore, the applicant filed this O.A for the relief as mentioned above.

3. Reply was filed. It is stated in the reply that after declaring the applicant successful in the examination conducted by the RRB, for appointment on the post of Diesel Assistant, the applicant reported on

26.7.88 to DRM Jaipur and he was directed to go for medical examination. The medical examination was completed and the applicant reported back on 16.8.88 for training as such he could not be sent for training as persons who were sent for training on 8.8.88 were also not allowed for training by the Training School. Shri Udai Shankar was medically examined on 30.7.88 yet he was not taken for training. It is stated that as per the provisions of para 303 of IREM, the seniority cannot be assigned to the applicant as claimed by him therefore, the applicant is not entitled to any relief sought for.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the applicant vehemently argued that because of the information not given to the applicant in time, he was imparted training late therefore the applicant should not be suffered because of the latches on the part of the respondents' department and the applicant should be assigned the seniority as per the merit obtained by him at the time of declaration of result in the written test and interview.

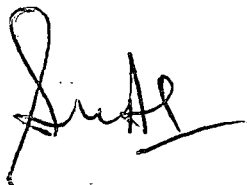
6. On the other hand the learned counsel for the respondents has argued that para 303 of the IREM makes it very clear that candidate who are sent for initial training earlier will rank senior to those who join the subsequent course for whatever reason. Therefore, it is stated by the learned counsel for the respondents that the respondents have assigned correct seniority to the applicant in accordance with the rules.

7. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

8. Para 303 of IREM, 1989 Edition reads as under:

"303. The seniority of candidates recruited through the Railway Recruitment Board or by any other recruiting authority should be determined as under:

(a) Candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order



of merit obtained at the examination held at the end of the training period before being posted against working posts. Those who join the subsequent courses for any reason whatsoever and those who pass the examination in subsequent chances, will rank junior to those who had passed the examination in earlier courses.

(b) In the case of candidate who do not have to undergo any training in training school, the seniority should be determined on the basis of the merit order assigned by the Railway Recruitment Board or other recruiting authority."

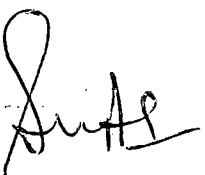
9. Admittedly, the applicant was sent for training at Zonal Training School, Jaipur w.e.f. 1.4.89 and he completed the training successfully in April 1990, thereafter he was posted as Diesel Assistant on 24.4.90. The other batchmates of the applicant joined the training earlier to the applicant whereas the applicant joined the subsequent training course, therefore, according to the provisions given in para 303 of IREM, the applicant cannot claim seniority at par with his batchmates.

10. The learned counsel for the applicant has also argued that the provisions as contained in paras 302 and 303 of the IREM are also arbitrary, discriminatory and in violation of Articles 14 and 16 of the Constitution of India. This relief the applicant did not mention in the relief clause of the O.A.

11. Even if on merits, we do not find any basis to declare the provisions contained in paras 302 and 303 of the IREM as arbitrary, discriminatory, ultravires and in violation of Articles 14 and 16 of the Constitution of India.

12. In view of the above, we are of the considered opinion that the applicant has no case for interference by this Tribunal and this O.A. devoid of any merit is liable to be dismissed.

13. We, therefore, dismiss the O.A. as having no merit with no order as



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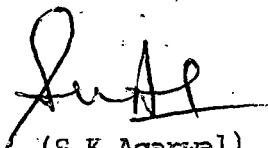
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to costs.



(N.P. Nawari)

Member (A).



(S.K. Agarwal)

Member (J).