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13-7-2011

None present for applicant.

Mr. Hama Singh, Counsel for respondents.

Heard. The OA stands disposed of, by a separate order.

Anil Kumar

(Anil Kumar)

M(A)

J. S. Rattan

(Justice J. S. Rattan)

M(I)

SOM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 13th day of July, 2011

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

1. ORIGINAL APPLICATION NO. 14/2007

Mahesh Chand Meena son of Shri Ram Swaroop Meena, aged about 32 years, at present working as Assistant Loco Pilot, Office of Chief Crew Controller, Bandikui, Jaipur Division, resident of Railway Quarter No. 279-B, Railway Colony, Bandikui.

.....Applicant

(By Advocate: None)

VERSUS

1. Union of India through its General Manager, North Western Railway, Headquarters Office, Opposite Railway Hospital, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Jaipur.
3. Shri Badlu Ram Jat, Assistant Loco Pilot, Office of Chief Crew Controller, Jaipur Railway Station, Jaipur.

.....Respondents

(By Advocates : Mr. T.P. Sharma – Respondents nos. 1 & 2
None for respondent no. 3.)

2. ORIGINAL APPLICATION NO. 19/2007

Pyare Lal Saini son of Shri Bhagwat Ram Saini, aged about 37 years, at present working as Assistant Loco Pilot, Office of Chief Crew Controller, Bandikui, Jaipur Division, resident of Railway quarter No. R/118C, Railway Colony, Bandikui.

.....Applicant

(By Advocate: None)

VERSUS

1. Union of India through its General Manager, North Western Railway, Headquarters Office, Opposite Railway Hospital, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Jaipur.
3. Shri Dharmendra Kumar Sharma, Assistant Loco Pilot, Office of Chief Crew Controller, Jaipur Railway Station, Jaipur.

.....Respondents

(By Advocate: Mr. Hawa Singh)

ORDER (ORAL)

As the common question of law & facts are involved, both these OAs are disposed of by a common order.

2. The facts of Pyare Lal Saini (OA No. 19/2007) is taken as a leading case. Brief facts of the case are that the Railway Recruitment Board issued a notification No. 3/96-97 dated 09.02.1997 for appointment to the post of Diesel/Electrical Assistant Driver. Pursuant to the notification, the written test was held in December, 1997 and viva voce test was conducted in January, 1998. On 19.03.1999, first list of the candidates empanelled prepared for training commencing from 29.03.1999 and on 24.03.1999, the second list of candidates empanelled issued for training commencing from 01.04.1999. On 28.06.2000, a provisional seniority list of Diesel/Electrical Assistant issued wherein the name of the applicant finds place at sr. no. 400 and the name of respondent no. 3 shown at sr. no. 404. Aggrieved with this seniority list, respondent no. 3 filed a representation dated 03.01.2001 against the provisional seniority list but the same was rejected. The amended seniority list was issued on 05.06.2002. In the said seniority list, the name of the applicant shown at sr. no. 338



whereas the name of respondent no. 3 finds place at sr. no. 342. Another seniority list dated 18.02.2004 was issued wherein the name of the applicant as well as respondent no. 3 finds place at sr. no.260 and 263 respectively.

3. Against the impugned seniority list, the applicant filed a representation dated 13.02.2006 protesting against the seniority list dated 25.05.2005 but the same was rejected vide order dated 27.04.2006. The applicant preferred this OA claiming relief that impugned seniority Annexure A/1 and Annexure A/3 be declared illegal in respect of the applicant and respondent no. 3 and the respondents may be directed to assign appropriate seniority to the applicant on the basis of Annexure A/7 i.e. on the basis of the marks obtained in the retention test, alternatively the merit position being higher of the applicant than respondent no. 3, the applicant may kindly be declared senior to respondent no. 3.

4. The only controversy in the aforesaid OA is with regard to assigning of seniority after completion of the training. Learned counsel for the applicant referred to Para No. 3 of Rule 15 of CCS (CCA) Rules, 1965, which reads as under:-

"3. Instances have also come to notice where, though the decisions in disciplinary/appellate cases were taken by the competent disciplinary/appellate authorities in the files, the final orders were not issued by that authority but only by a lower authority. As mentioned above, the disciplinary/appellate/ reviewing authorities exercise quasi-judicial powers and as such, they cannot delegate their power to their subordinates. It is, therefore, essential that the decision taken by such authorities are communicated by the competent authority under their own signatures, and the order as issued should



comply with the legal requirements as indicated in the preceding Paragraphs. It is only in those cases where the President is the prescribed disciplinary/ appellate/ reviewing authority and where the Minister concerned has considered the case and given his orders that an order may be authenticated by an officer, who has been authorized to authenticate orders in the name of the President."

5. This Tribunal vide its order dated 21.04.2009 directed the respondents to file an affidavit as to what was the basis for sending the persons for training on two different occasions especially when they have qualified the common selection test. The respondents were also directed to place on record merit order assigned by the Railway Recruitment Board or the recruiting authority on the basis of which the candidates were sent for training. Pursuant to the directions issued by this Tribunal, the respondents submitted an additional affidavit in which they have stated that as per record 468 candidates were selected for the post of Diesel Assistant by the RRB Ajmer, out of which 50 candidates were allotted to Jaipur Division who were to be sent for initial training to Udaipur training School. The training is imparted by the Zonal Training Centre on the basis of available seats/ infrastructure with it. The Zonal Training School, Udaipur sent the requisition vide letter dated 04.02.1999 and accordingly, the allotted candidates of Jaipur Division were sent in two batches vide office order dated 19.03.1999 and 24.03.1999 and after completion of training, were declared successful by result dated 03.05.1999 and 06.05.1999. It is also stated that as per IREM Para I Para 303 (a), the seniority of the candidates is determined in order of merit. The seniority would be based on the merit obtained in the result declared at the end of the Zonal School Training. The relief claimed by the applicant in this OA is



to assign him appropriate seniority on the basis of the marks obtained in the written test. We have gone through Para 3 of Rule 15 of CCS (CCA) Rules, 1965 but upon perusal of Para No. 3 of Rule 15 of CCS (CCA) Rules, 1965, we find no controversy involved in the present OA. We have also gone through Para No. 303 of IREM. As per Para 303 sub clause (a), candidates who are sent for initial training to training school 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.

6. The respondents also demonstrated that they have prepared the common seniority list strictly in accordance with Para No. 303 of IREM. Be that as it may, we deemed it proper to clarify the controversy raised by the applicant in this OA in view of the provisions of Para No. 303 of IREM. It is not disputed by the respondents that training institute was not having adequate infrastructure and was for only 25 candidates. Therefore, the candidates who appeared in the same examination were sent for training in two batches and it is also not disputed that after completion of the training, merit list is to be prepared on the basis of marks obtained at the examination held at the end of the training before being posted at the working post. Therefore, irrespective of the fact that the candidates are sent for training in two different batches and after completion of the training, common seniority is required to be drawn on the basis of merit including the marks obtained in the training.



7. Therefore, we allow the OA and direct the respondents to draw a common seniority list of the candidates who appeared in the test, which was held in December, 1997 and January, 1998 and viva-voce conducted in the January, 1998 and on the basis of training and assign the seniority to the applicant in accordance with merit prepared after completion of training,

8. With these observations, both these OAs shall stand disposed of accordingly with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

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