

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 07th day of January, 2010

ORIGINAL APPLICATION NO. 02/2010

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

M.L. Phulwari son of Late Shri D.L. Phulwari aged 49 years, resident of S-259, Prem Kunj New Chander Nagar, Ajmer. Presently working as Private Secretary Grade I (Gazetted) to Divisional Railway Manager, North Western Railway, Ajmer (Rajasthan).

.....APPLICANT

(By Advocate: Mr. Ramesh Chand)

VERSUS

1. Union of India through Chairman Railway Board Rail Bhawan, New Delhi.
2. General Manager, North Western Railway, Hasanpura Road, Jaipur.
3. General Manager, Western Railway, Church Gate, Mumbai.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- "(i) The respondents may be directed by an appropriate order or direction to produce the entire records. Concerning to the case of humble applicant and after perusing and examination of the same the respondent no. 2 may be directed to assign the seniority in Gr. 'B' PS on North Western Railway from the date, applicant takes over charge i.e. 13.01.2004 in terms of Railway Board's Order No. E(O) III-77-AE-3/128 dated 03.12.1977 with all consequential benefits.
- (ii) The respondent no. 2 may be directed that humble applicant may be treated as regular selected empanelled

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candidate for promotion to Gr. 'B' post of Private Secretary Gr.-I scale Rs.7500-1200 as per Annexure A/4.

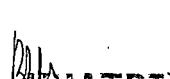
- (iii) The respondent no. 2, General Manager, North Western Railway, may be directed not to dislocate the humble applicant from his present working post till finalization of the case.
- (iv) Cost may be awarded in favour of humble applicant.
- (v) Any other direction and order which are deemed proper in facts and circumstance of the case may kindly be allowed to the humble applicant."

2. The grievance of the applicant is regarding Memorandum dated 31.03.2009 (Annexure A/1) whereby the services of the persons mentioned therein have been regularized with effect from the date when they were promoted on ad hoc basis. As can be seen from Memorandum dated 31.03.2009 (Annexure A/1), the services of 15 persons have been regularized in the year 2007 with effect from the dates mentioned therein whereas service of the applicant has been regularized with effect from 09.05.2003 and against remarks column, it has been mentioned that the applicant has been transferred from Western Railway to North Western Railway vide Railway Board's letter dated 06.07.2007 (Annexure A/12). The grievance of the applicant is that by virtue of Memorandum dated 30.03.2009 (Annexure A/1), the persons whose services have been regularized with effect from 2007 have been placed above the applicant, whose service has been regularized w.e.f. 09.05.2003 and in terms of Railway Board's letter dated 06.07.2007, his seniority in North Western Railway has to be determined from the date of joining. According to the learned counsel for the applicant, the applicant had joined as Private Secretary in North Western Railway in the year 2004; as such admittedly he is senior to the persons mentioned as sr. no. 1 to 15 in the Memorandum dated 30.03.2009 (Annexure A/1). For that purpose, the applicant has also made representation dated 27.04.2009 (Annexure A/18) to Respondent no. 2, the General Manager (P), North Western Railway, Jaipur.

3. We have heard the learned counsel for the applicant at admission stage. We are of the view that the Memorandum dated 31.03.2009 relates to the regularization of service of the persons

mentioned therein and this memorandum cannot be construed as seniority list regarding the persons in the said memorandum including the applicant. The seniority has to be determined in accordance with rules. As such, according to us, the apprehension of the applicant that vide memorandum dated 31.03.2009 (Annexure A/1), the respondents have determined the seniority of the persons mentioned therein including the applicant appears to be misconceived. In any case, the applicant has made representation to the appropriate authority (Annexure A/18 & Annexure A/19), which have not been decided so far. We are of the view that the matter can be disposed of at this stage with the direction to respondent no. 2 to decide the representation of the applicant by passing a reasoned & speaking order and such representation shall be decided within a period of three months from the date of receipt of a copy of this order. Needless to add that in case the applicant is still aggrieved by the decision so taken by the respondents, it will be open for him to file substantive OA for the same cause of action.

4. With these observations, the OA is disposed of at admission stage with no order as to costs.


(B.L. MATHRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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