

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER : 17-4-2002

OA No. 649/96

R.P. Morya son of Shri Heera Lal Morya aged about 40 years at present working at Vikramgarh Alot as Assistant Traction Foreman under the control of Senior Divisional Electrical Engineer (TRD), Western Railway, Kota (Rajasthan), Resident of Quarter No. 83, Type III, TRD, Vikramgarh Alot, Kota Division, Kota.

....Applicant.

VERSUS

1. The Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Senior Divisional Electrical Engineer (Estt.), TRD, Western Railway, Kota.
4. Shri Naresh Kumar, Assistant Traction Foreman in the office of CTFO(RC), Western Railway, Kota.
5. Shri Paras Nath, Assistant Traction Foreman in the office of Chief Project Manager (RE), Ranchi (Bihar).
6. Shri S.K. Tyagi, Assistant Traction Foreman, CTFO (TRD), Western Railway, Sawai Madhopur.

....Respondents.

Mr. P.V. Calla, Counsel for the applicant.

Mr. T.P. Sharma, Counsel for the respondents.

CORAM

Hon'ble Mr. Justice O.P. Garg, Vice Chairman

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

ORDER

PER HON'BLE MR. A.P. NAGRATH, MEMBER (ADMINISTRATIVE)

The applicant, who had at the time of filing of this OA, was working as Assistant Traction Foreman, was initially recruited as Apprentice Electrical Chargeman grade Rs. 1400-2300 and was allotted to Bombay Division. For this post, the recruits have to undergo a training of two years before joining on the working post. The applicant reported for training on 25.6.1985 and in his case, the training period was curtailed to 52 weeks. He was put on the working post on 26.6.1986. He was transferred to Kota Division on Administrative grounds. A seniority of Electrical Chargeman of grade 1400-2300 was issued by Kota Division vide letter dated 26.12.90. The applicant was placed at sl. No. 1 of this list. Further in the year 1995, in pursuance of instructions of Head-quarter dated 25.7.94, the seniority list for this grade was again issued. Once again, the applicant's name was shown at sl No. 1 of this list. These two seniority lists also indicate initial date of assigning seniority as 25.6.1987. This was declared as a provisional seniority list. Subsequently, by order dated 9.5.96 (Annexure A/1), the list issued on 7.8.1995 was proposed to be revised on the ground that proposed revision is a result of examination of the representations received against the said seniority list. While issuing this proposed revised list, again the affected employees have been given opportunity to represent against this revision in case they feel aggrieved with the same. It is this order dated 9.5.1996 (Annexure A/1), which has been challenged in this OA. Prayer of the applicant is that this impugned order be quashed and set aside and the seniority list as issued on 26.12.90 and later on 7.8.95 be maintained.

2. We have perused the entire record including the averments in the OA and attached Annexures as well as the

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reply of the respondents. We have also heard the learned counsel on either side.

3. After hearing the learned counsel at length, the accepted position which emerged is that seniority in this cadre is regulated by provision of Paras 302 and 303 of Indian Railway Establishment Manual (IREM), Volume I. The learned counsel for applicant vehemently stressed that seniority list was earlier prepared correctly and in accordance with the relevant rules. There was no reason for the respondents to revise the same to the detriment of the applicant and bringing down the applicant from Number 1 position to Number 24 position. On the other hand, the learned counsel for the respondents justified this revision on the ground that as per instructions contained in Headquarter's letter (Annexure A/6), the candidates who were transferred from other Divisions in administrative interest were to be given their seniority according to the date of entry in the grade Rs. 1400-2300, on absorption after completion of prescribed training of two years. While taking position into account, it was discovered that applicant had not been assigned correct seniority vide letter dated 26.12.90 and 7.8.95.

4. It is interesting to observe in this case that learned counsel on either side are supporting their respective contentions by quoting the provisions of same Rules. There is no dispute that the seniority of the Electrical Chargeman has to be reckoned not from their date of entry into service and the inter-se position of recruits as per the penal positioned form at the time of recruitment; but is determined under provisions of Para 303 of IREM. As per this Para, the seniority is determined on the basis of merit position of the recruits in the examination held on completion of their training. The learned counsel for the respondents emphasised this point that the revision became necessary as the seniority had to be regularised keeping in view the merit position of the candidates in the final result

as also the fact that the applicant had been brought to Kota on administrative grounds. Our attention was drawn to the covering letter dated 26.12.90 by the learned counsel for the applicant. On perusing the same, we find a clear statement made by the Department that this seniority has been prepared based on the marks obtained by the candidates in their final examination. Obviously, if the first list has been prepared by taking into account the marks obtained by the candidates in the dinL examination after training, there can be no reason for making any changes in that list. The fact that the applicant was transferred to Kota from Bombay in administrative grounds, would rather strengthen his case and not negate it. His relative seniority, vis-avis recruits of his batch, as determined after training shall not afcted at all by said transfer on administrative grounds. Our pointed querry to the learned counsel for the respondents failed bringing forth any information basis to suggest that the applicant had in fact obtained lower marks in the training as compared to the private respondents. In absence of any proof to the contrary, we are inclined to accept the contention of the learned counsel for the applicant that the seniority list issued vide letter dated 26.12.90 was based on the final result after training.

5. We, therefore, allow this OA and quash and set aside the proposed revised seniority list qua the applicant issued vide impugned order dated 9.5.1996 (Annexure A/1). The seniority of the applicant in the grade Rs. 1400-2300 shall stand restored to as was obtaining in terms of the orders dated 26.12.90 and 7.8.95. The respondents shall comply with this order within two months from the date of this order by communicating the revised position to the applicant in terms of this order. Parties are left to bear their own costs.

*Unp/s*  
(A.P. NAGRATH)  
MEMBER (A)

*O.P. GARG*  
(O.P. GARG)  
VICE CHAIRMAN