

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 14/12/2007

OA 491/97

Raghuvir Singh, Junior Engineer II (erstwhile Chargeman-B),
26 Department C & W Shop, Ajmer, Western Railway.

... Applicant

v/s

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Chief Works Manager, Loco Shop, Ajmer.
3. Dy.Chief Mech.Engineer, CSW Shop, Ajmer, W/Rly.
4. Shri Surendra Prakash Sharma, Jr.Engineer-I, 26 Department, CSW Shop, Ajmer, W/Rly.

... Respondents

CORAM:

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

HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

For the applicant

... Mr.C.B.Sharma

For the respondents

... Mr.Manish Bhandari

O R D E R

PER HONBLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

In this application filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant has sought directions to the respondents to assign him proforma seniority above respondent No.4 i.e. from 1993 as per para 228 and 316 of the Indian Railway Establishment Manual (for short, IREM), Volume-I, 1989 Edition, and allow all consequential benefits

Supd

2. Case of the applicant is that while working on the post of Skilled Artisan Grade-I, he participated in the selection for the post of Chageman against 25% quota for serving Matriculate employees, since he fulfilled the eligibility conditions. He qualified in the written test and was called for viva-voce. This selection was cancelled on the ground of irregularity. The applicant, alongwith other successful candidates, challenged this action of the respondent department vide OA 404/92. The same was allowed vide order dated 18.5.93 directing the respondents to declare the result after ~~xxx~~ re-examining the answer sheets by applying uniform standard. Consequent to these directions, a final ~~xxx~~ panel was declared vide letter dated 28.9.93 (Ann.A/4) and applicant's name appeared at S.No.6. After successfully completing the training, the applicant was posted on the working post of Chageman vide letter dated 6.1.96 (Ann.A/5). In the meantime, some candidates were promoted against promotion quota after selection vide order dated 8.6.92 (Ann.A/6). Respondent No.4 was amongst

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the successful candidates and he has been assigned seniority above the applicant for having joined as Chargeman earlier. ~~This has been because of the reasons not attributable to the applicant~~ His representation to the department has not met with any success. There are specific provisions in para 228 and 316 of IREM, Vol.I, according to which the applicant deserves to be placed above respondent No.4 by giving him proforma seniority.

3. The respondents in their reply have submitted that the seniority is assigned on promotion after a person is posted after following the due process. The selection of a candidate does not give him a right to be appointed on the post unless such order is passed. It has been submitted that the seniority is governed by the provisions of para 302 and other relevant paras of IREM which govern the determination of seniority. It has also been stated that the applicant can claim seniority only from the date he joins the post after the due process.

Accepted

4. We have heard the learned counsel for the parties and have perused the relevant provisions of IREM, Vol.I. ~~AND~~ and the whole record of the case.

5. The admitted facts are that the applicant was posted as Chargeman after being found successful against 25% quota for ~~an~~ Apprentice Mechanic for serving employees fulfilling the requisite eligibility conditions. It is also admitted that earlier the selection was cancelled because of certain irregularities detected and consequent to the orders passed in OA 404/92 the final panel was declared on 28.9.93. In this category there is a training period of two years involved and the applicant was posted as Chargeman vide letter dated 6.1.96 after successful completion of training. It is also admitted that respondent No.4 qualified against the promotee quota and was posted as Chargeman vide order dated 8.6.92. These two are different procedures of promotion to the post of Chargeman. Promotion of the applicant against 25% quota ^{is} governed by a different set of rules and ~~a successful candidate has~~ ^{to} undergo training for two years before he is posted. In the case of promotees,

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there is no requirement of training.


6. We have carefully seen the various relevant provisions of IREM. Para 228 relates to the situation where sometimes the staff are over-looked for promotion due to administrative errors. On detection of error, the staff erroneously ignored earlier is allowed proforma promotion. Para 316 relates to the situation where a government servant who, for reasons beyond his control, is unable to appear in the examination in his turn alongwith others, is given the examination immediately he becomes available and if he passes the same, he becomes entitled for proforma promotion to the post ^{with respect to his junior in the cadre}. These two paras of the IREM are not relevant to the instant case. The only relevant para of IREM which determines seniority, is para 302. This para specifically provides that; "the critarion for determination of seniority should be the date of regular promotion after due process in the case of promotee and the date of joining the working post after due ~~pro~~ process in the case of direct recruit."

Report

7. The position which emerges from the above is that there is no inter-connection between the two different processes for filling up the vacancies. Granting of proforma seniority arises only in a situation when in the same process of selection some administrative lapse has taken place affecting the right of the senior who has been ignored erroneously. In the case under adjudication, the process of filling up of 25% vacancies was completed late for the reasons indicated above. The applicant could take position as Chargeman only after completion of training and ~~has~~ he has been assigned seniority only as per rules. He cannot claim comparison with respondent No.4 who ~~has~~ promoted through a different process altogether. There is no merit in the claim of the applicant.

8. We, therefore, dismiss this OA as devoid of any merits with no order as to costs.


 (A.P.NAGRATH)
 MEMBER (A)


 (S.K.AGARWAL)
 MEMBER (J)