

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

JAIPUR

Date of decision: 18.11.2003

OA No.380/1999

Madan Gopal Agarwal s/c Shri Gopal Lal Agarwal r/o 3-E-14
Vaishali Nagar, Ajmer, presently posted as Office
Superintendent, Compilation office, Western Railway, Ajmer.

.. Applicant

VERSUS

1. Union of India through General Manager, Western
Railway, Churchgate, Mumbai.
2. The Financial Advisor and Chief Accounts Officer
(S), Western Railway, Churchgate, Mumbai.
3. The Statistical & Analysis Officer, Western
Railway, D.R.M. Campus, Ajmer.
4. Shri R.C.Sharma, Office Superintendent,
Compilation Office, Western Railway, Ajmer.
5. Smt. Maya Ratwani, Office Superintendent,
Compilation Office, Western Railway, Ajmer.

.. Respondents

Mr. P.P.Mathur - counsel for the applicant.

Mr. U.D.Sharma - counsel for the respondent Nos. 1,2 & 3

None present for other respondents.

CORAM:

Hon'ble Mr. J.K.Kaushik, Member (Judicial)

Hon'ble Mr. A.K.Bhandari, Member (Administrative)

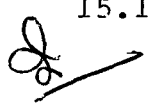
ORDER (ORAL)

Shri Madan Gopal Agarwal has filed this OA
wherein the prayer has been made to rectify the seniority
list dated 5.9.97 and he be placed above respondent Nos. 4
and 5. Further prayer is that his case may also be
considered for promotion to the next higher grade of Chief
Office Superintendent.



2. Skipping of the ~~superfluities~~, the case of the applicant is that his two juniors were promoted to the post of Compilation Superintendent vide order dated 20.4.95. They were empanelled in the panel dated 13.4.95 for the said post. The applicant complains of his non-inclusion in the said panel. He submits that a review was conducted and in the review it was found that he was also eligible after watching his performance for certain specified period and thereafter his name was included in the panel dated 13.4.95. As per the averment made in the reply, his name was placed at the bottom. Thereafter he was promoted vide order dated 15.11.95 (Ann.A15). The case of the applicant is that since he is empanelled alongwith his juniors, he should be assigned seniority on the said post of Compilation Superintendent above respondent No. 4 and 5. We find from perusal of the relief clause that there is ~~claim seeking~~ no change regarding date of promotion of the applicant and the position is that the respondent Nos. 4 and 5 were promoted w.e.f. 20.4.95 and the applicant was promoted w.e.f. 15.11.95

3. As per rules of seniority as laid down in Para 302 of the Indian Railway Establishment Manual, Vol.I, in respect of promotees seniority to the promotee should be assigned from the date he resumes duty on the promotional post. In the present case, respondent Nos. 4 and 5 have admittedly resumed duty on the higher post much earlier to the applicant. It is not the case of the applicant that his date of promotion be changed and brought at par with respondent Nos. 4 and 5. Incidentally, the order dated 15.11.99 (Ann.A15) is not under challenge.

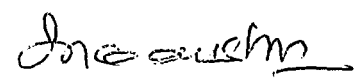


4. In view of the law position and the law relating to the seniority, the seniority has to be assigned from the date of promotion in case of promotees. Since there is no change in the date of promotion of the applicant, who was admittedly promoted much later than respondent Nos. 4 and 5, he cannot have any claim for seniority over respondent Nos. 4 and 5. The learned counsel for the applicant has also stressed on certain additional grounds inasmuch as, at the time of consideration of his case, he has not been communicated rejection of his representation. The learned counsel for the respondents has serious objection. In view of the aforesaid observations, since the very OA is not maintainable and the relief claimed itself is not sustainable, we are not inclined to examine all these matter in this OA.

5. The result is rather very unfortunate, but we have no option but to dismiss this case and the OA is accordingly dismissed with no order as to costs.


(A.K.BHANDARI)

Member (A)


(J.K.FAUSHIK)

Member (J)