

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order : 25/04/2003

1. OA No. 24/2000

Prem Chand Saini son of Shri Narain Lal Saini aged about 26 years, at present working on the post of Travelling Ticket Examiner under the Chief Ticket Inspector, Western Railway, Alwar, resident of Malipura, Baswa Road, Jagir Bandikui, Rajasthan.

..... Applicant

VERSUS

(i) The Union of India through the General Manager, Western Railway, Churchgate, Mumbai.

(ii) Divisional Railway Manager (Estt.), Western Railway, Jaipur Division, Jaipur.

(iii) Sr. Divisional Personnel Officer, Western Railway, Jaipur Division, Jaipur.

..... Respondents.

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

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

2. OA No. 67/2000

~~Moo~~ Mool Chand son of Late Shri Bhagirath aged about 38 years at present working on the post of Travelling Ticket Examiner (On adhoc basis) under the Chief Ticket Inspector, Western Railway, Sikar, resident of Dhani Saftan, Post Vadhvari via Kanwar, District Sikar.

..... Applicant.

VERSUS

(i) The Union of India through the General Manager, Western Railway, Churchgate, Mumbai.

(ii) Divisional Railway Manager (Estt.), Western Railway, Jaipur Division, Jaipur.

(iii) Sr. Divisional Personnel Officer, Western Railway, Jaipur Division, Jaipur.

(iv) Shri Mali Ram son of Shri Surja Ram at present working as TTE under the CTI, Western Railway, Sikar.

(v) Shri Ashok Kumar Jain son of Shri Guman Lal Jain, at present working as LRTTE under the CTI, Western Railway, Rewari.

(vi) Shri Mahendra Kumar son of Shri Suda Ram at present working as TTE under the CTI, Western Railway, Sikar.

- (vii) Shri Kamlesh Kumar Sharma son of Shri Dwarka Prasad Sharma at present working as LRTTE under the CTI, Western Railway, Ajmer.
- (viii) Shri Raghuveer Singh Shekhawat son of Shri Bhagirath Singh at present working as TTE under the CTI, Western Railway, Rewari.
- ix) Shri Naresh Kumar son of Shri As andas Makhija at present working TC under the S S Alwar, Western Railway.
- (x) Shri Seeta Ram Jat son of Shri Ladu Ram at present working as LRTTE under the CTI, Western Railway, Ajmer.
- (xi) Shri Mangi Lal Gupta son of Shri Roop Narain Gupta at present working as LRTTE under the CTI, Western Railway, Jaipur.
- (xii) Shri M Ghamandi Ram Meena son of Shri Lalu Ram Meena at present working as TTE under the CTI, Western Railway, Bandikui.
- (xiii) Shri Mahesh Kumar Sethi son of Shri Nathu Ram at present working as LRTTE under the CTI II, Western Railway, Jaipur.
- (xiv) Shri Deepak Makhija son of Shri Asan Das Makhija at present working as LRTTE under the CTI-I, Jaipur.
- (xv) Shri Girraj Prasad son of Shri Tulsi Ram at present working as TTI under the CTI, Western Railway, Bandikui.
- (xvi) Shri Vijay Chawla son of Shri Jai Kishan at present working as LRTTE under the CTI-I, Western Railway, Jaipur.
- (xvii) Shri Girish Singh son of Shri Shambu Singh at present working as TTE under the CTI, Western Railway, Bandikui.
- (xviii) Shri Kamlesh Pareek at present working as LRTTE under the CTI-II, Western Railway, Jaipur.
- (xix) Shri Devesh Kumar son of Shri Bhiga Ram at present working as LRTTE under the CTI, Western Railway, Bandikui.
- (xx) Shri Radhey Shyam Bairwa son of Shri Badri Prasad at present working as TTE under the CTI, Western Railway, Ajmer.
- (xxi) Shri Ashok Kumar Badsar son of Shri Krishna Sharma at present working as LRTTE under the CTI, Western Railway, Ajmer.
- (xxii) Shri Mahendra Kumar son of Shri Jagdish Prasad, at present working as LRTTE under the CTI-II, Western Railway, Jaipur.
- (xxiii) Shri Ajay Solanki son of Shri CR Solanki at present working as LRTTE under the CTI, Western Railway, Ajmer.
- (xxiv) Shri Man Singh son of Shri Samat Singh at present working as LRTTE under the CTI, Western Railway, Sikar.
- (xxv) Shri Lakhan Lal Jatav son of Shri Hardev at present working as TTE under the CTI, Western Railway, Bandikui.
- (xxvi) Shri Vipin Yadav son of Shri Shiv Lal at present working as LRTTE under the CTI-I, Western Railway, Jaipur.
- (xxvii) Shri Nand Kishore son of Shri Bal Krishna at present working as LRTTE under the CTI, Western Railway, Bandikui.

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

Mr. T.P. Shama, Counsel for the respondents nos. 1 to 3.

Mr. NandKishore, Counsel for the respondents nos. 4 to 7,  
9 to 14 and 22 to 25.

None for other respondents.

CORAM:

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

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

ORDER

PER MR. A.P. NAGRATH

The controversy involved in these two OAs being the same, these are being disposed of by this common order.

2. These applications have been filed in the background of following undisputed facts. Both the applicants are appointees in the category of Ticket Collector, on compassionate grounds. Applicant in OA No. 24/2000, Shri Prem Chand Saini joined on the post on 28.3.1994 whereas applicant in OA No. 67/2000, Shri Mool Chand, joined on 1.9.1994. In the seniority list of Ticket Collector in the grade of Rs. 3050-4590/- issued vide letter dated 30.10.1997, Shri Prem Chand Saini has been shown at sl. no. 34 and Shri Mool Chand at sl. no. 38. In the said seniority list persons shown at sl. nos. 39 to 63 are <sup>the</sup> ones who were recruited directly from the ~~an~~ open market through Railway Recruitment Board, Ajmer. Their panel was formed <sup>in</sup> July, 1993 and they were allotted Jaipur Division. They were sent for prescribed training to the Zonal Training School, Udaipur and the final panel based on the merit position ~~was~~ obtained by them in this training was issued on 7.1.1994. However, after completion of the training, they could not be posted at Jaipur Division due to non availability of vacancies and hence they were ordered to be posted at Ratlam and Baroda Divisions. While they were working in these ~~two~~ Divisions, they filed OA Nos. 170/94, 198/94 and 247/94

with the prayer that they be allotted to Jaipur Division where vacancies <sup>be</sup> alleged to be filled by the respondents under ~~Ranker~~ quota or candidates appointed on compassionate grounds. These OAs were decided by the Tribunal vide order dated 12.9.1994 by directing the official respondents that after considering the cases of persons rendered surplus, the appointment should be offered to the persons nominated for appointment as Ticket Collectors in the Jaipur Division in the order of their seniority, to the extent of availability of vacancies. It was further ordered that those who cannot be absorbed in Jaipur Division may be offered appointments in the nearby divisions and also elsewhere in Western Railway. Those, keen to come back to Jaipur Division were ordered to be brought back to Jaipur in order of their seniority. In pursuance of these directions, the candidates listed at sl. no. 39 to 63 were brought to Jaipur Division where they apparently joined on various dates in January, 1995. Their inter se seniority as per merit position obtaining after training, was kept intact. These direct recruits represented against the seniority assigned to them. The respondents amended the seniority list vide order dated 18.3.1999 after giving due notice to all concerned for making representations, if any. In the amended seniority list dated 18.3.99, applicant Prem Chand, has been shown at sl. No. 63 'A' and Mool Chand at sl. No. 63 'E'. The direct recruits who joined in January, 1995 have all been shown above the applicants. Being aggrieved with this revised seniority list, the applicants have filed these two OAs.

3. We have heard the learned counsel for the parties and perused the entire record <sup>very carefully.</sup> Copy of the judgement in OA No. 55/2000 and copy of the judgement of the Apex Court in the case of S.K. Pal & Others 2001(3)SLJ 1 have also been perused by us.

4. The plea of the respondents is that their seniority list issued on 30.10.98 was modified in pursuance of the directions of the Tribunal. The learned counsel for official respondents, Shri T.P. Shama, drew out attention to the orders of the Tribunal in CP No. 36/1996 in OA No. 170/94, which was disposed of on 13.1.1998. His plea was that taking note of the direction of this Tribunal, this seniority list dated 30.10.98 was modified.

5. The learned counsel for the applicant, Shri P.V. Calla repelled the contention of the opposite party and submitted that in the order in OA No. 170/94, there was no direction ~~as~~ to amend the seniority of direct recruits vis-a-vis those already holding the post of Ticket Collector on Jaipur Division. He further submitted that specific direction as to the manner for determining the seniority were given by the Tribunal in OA No. 55/2000. In that order, the Tribunal had taken due notice of the order passed earlier of OA No. 170/94 and had come to the conclusion that in earlier OA there was no direction as to how the seniority was to <sup>be</sup> assigned. He convass-ed that in OA No. 55/2000, specific direction for determining the seniority of direct recruits vis-a-vis those already working on the post of Ticket Collector had been given. The learned counsel for the applicant produced for our perusal a copy of the order dated 28.6.2002 to stress that the order of the Tribunal has been complied with, in respect of the applicant in that OA i.e. Deepak Bhardwaj whereas in respect of the remaining portion of the direction, no action has been taken by the official respondents to amend the seniority list.

6. The learned counsel for the respondents, however, asserted that there was no requirement to amend the seniority list in pursuance of the order of this Tribunal in OA No. 55/2000 as that order was only in respect of the applicant in that OA who had come to Jaipur on transfer from another Division. His contention was that the case of Deepak Bhardwaj has no similarity with

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the case of the applicants in these two OAs. He stressed that assigning seniority to the direct recruits was not only in conformity with the order in OA No. 170/94 as clarified in the order of CP 36/1996 decided on 13.1.1998 but also in conformity with the rules relating to determination of seniority of the direct recruits and promotees. He stated that these recruits had completed training in January, 1994 and it was only for want of vacancies that they could not be accommodated in Jaipur Division and had to join in other Divisions. It was in pursuance of the order of the Tribunal that they were brought to Jaipur and in that order it was clearly stated that on coming to Jaipur, they will not lose their seniority. Having regard to these directions, the learned counsel submitted that impugned seniority list dated 13.3.99 was issued.

7. The learned counsel for private respondents, Shri Nand Kishore, while referring to the judgement of the Apex Court in the case of S.K. Pal vs. Samitabhar Chakraborty & Others (Supra) stressed that seniority could be determined only in terms of relevant provisions of Para 302 of IREM. According to him, the direct recruits were entitled to be assigned seniority w.e.f. January, 1994 i.e. as soon as their panel, after training in the Zonal Training School, was declared.

8. We have given anxious consideration to the contentions of the contending parties and have perused the records including judgements on which reliance has been paid on either side and which are available on record. In so far as the case of S.K. Pal Supra, matter before the Apex Court was determination of inter-se seniority between the promotees and direct recruits where promotees had been given the benefit of ad-hoc service. This benefit was also allowed by the Hon'ble High Court but the Apex Court had rejected the same and directed that any ad-hoc

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service rendered dehors the rules cannot be counted for the purpose of seniority. It is clear that order in S.K. Pal's case has no relation with the controversy before us. What is required to be considered by us is whether official respondents had acted legally by amending the seniority list dated 18.3.99, purportedly in compliance of the directions of this Tribunal. A perusal of order dated 24.4.2002 in OA No. 55/2000 makes it clear that while deciding that matter, the Bench which included one of us i.e. Mr. A.P. Nagrath, had taken note of order dated 12.9.94 in OA No. 170/94. It will be in order to reproduce Paras 12 & 13 of that order of OA No. 55/2000.

"12. We have also considered the verdict of this Hon'ble Tribunal in the judgement dated 12.9.1994 (Annexure A/13, supra) and there was no such direction that any special seniority is to be assigned to the direct recruits even above the persons already holding the post of Ticket Collector. Thus, the assignment of the seniority to the direct recruits who have been given appointment in pursuance of the said judgement are not in order. Therefore, the impugned order dated 18.3.99 (Annexure A/1), letter dated 16.7.99 (Annexure A/2) and letter dated 25.1.2000 (Annexure A/3) are not sustainable in law and deserves to be quashed. The respondents should be required to review the suitability test proceedings under conducted in pursuance with Annexure A/11 since the same is based on wrong assignment on the seniority.

13. In view of the aforesaid discussion, the OA merits acceptance and the same is allowed. The impugned orders Annexure A/1 dated 18.3.1999 Annexure A/2 dated 16.7.1999 and Annexure A/3 dated 25.1.2000 are hereby quashed. The respondents are directed to recast the seniority as per the date of joining in Jaipur Division in respect of the applicant as well as the persons recruited through RRB maintaining the inter-se seniority as Per Para 302 of IREM Vol. I, 1989 ( Consequently, the respondents are further directed to review the promotions already made on the basis of wrong assignment of seniority and consider the cases of promotion as per seniority now ordered to be assigned by this order. This order shall be complied with within a period of 4 months from the date of receipt of this order. No order as to costs."

9. It is clear from the above that impugned order dated 18.3.99 has been quashed. It is not the case of the respondents that they have challenged this order by way of Writ Petition. Their plea that they were required to amend the seniority list only in respect of the applicant of that case, Deepak Bhardwaj, is not borne out by facts. There was a clear direction in Para 13 to recase the seniority for the post of Ticket Collector strictly as per the date of joining in Jaipur Division in respect of the applicant as well as persons recruited directly as per Para 302 of IREM Vol. I (emphasis supplied).

Not only this, the respondents were further directed to review the promotions already made on the basis of wrong assignment of seniority. The amended impugned seniority is dated 18.3.99 and the respondents were required to recast the same in compliance of the direction in OA No. 55/2000 which they have obviously not done. Their plea that they were required to correct the seniority in respect of Deepak Bhardwaj only is merely stated to be rejected. They were required to recast the entire seniority by taking into account the date of joining of the respective candidates in Jaipur Bench, of course maintaining the inter-se seniority of direct recruits as per merit position obtained in the training. Since the applicants were already holding the post of ticket collector in Jaipur Division before the direct recruits joined in January, 1995, it is obvious that they i.e. the applicants cannot be said to be juniors to those persons.

10. In the light of discussion above, we allow these OAs. It has become necessary for us once ~~again~~ again to reiterate that impugned seniority dated 18.3.99 stands quashed and is nonest for all purposes. The official respondents are directed to recast the

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seniority for the post of Ticket Collector strictly as per the date of joining of the respective persons in Jaipur Division obviously maintaining the inter-se seniority of the direct recruits as per merit position. The respondents are further directed to review the promotions already made on the basis of the impugned seniority list and consider the case of promotion to the next higher grade as per eligibility to be determined as per the seniority list now recast. The order shall be complied with within a period of three months from the date of receipt of the certified copy of this order. No order as to costs.

(M. L. CHASHAN)  
MEMBER (J)

(A. P. NAGRATH)  
MEMBER (A)