

CENTRAL ADMINISTRATIVE TRIBUNAL.
JAIPUR BENCH: JAIPUR.

O.A.No. 419/2002.

Date of decision: 14.07.2004.

The Hon'ble Mr. S.K. Agrawal, Administrative Member.

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

Smt. Sudha Bhaskar, Sr. Clerk, Wife of Shri Suresh Chander aged about 42 years resident of 224/9 Road No. 6, Ganpati Nagar, Railway Colony, Jaipur.

: Applicant.

rep. by Mr. Nand Kishore: Counsel for the applicant.

VERSUS

1. Union of India through General Manager, Western Railway, Church Gate, Mumbai-20
2. Divisional Railway, Manager, Western Railway, DRM's Office, Jaipur.
3. Smt. Hem Lata, Sr. Clerk, Works Branch D.R.M.'s Office, JAIPUR.

: Respondents.

Mr. R.G. Gupta: Counsel for the respondents 1 & 2

Mr. P.V. Calla : Counsel for respondent No., 3



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ORDER

Mr. J.K. Kaushik, Judicial Member.

Smt. Sudha Bhaskar, has assailed the notice dated 22.01.2002 at Annex. A/1 (Sic. Annex. A/2), through which the respondents have proposed to amend the seniority of the applicant and two others amongst other reliefs.

2. We have heard the learned counsel for the parties and have carefully perused the records of this case.

3. The controversy involved in this case is at a very narrow compass. The applicant is holding the post of Senior Clerk and was assigned seniority at Sl. No. 22 vide seniority list dated 16.05.2001, which is proposed to be amended to Sl. No. 23 vide impugned notice dated 22.01.2002. The said order contains annotation that representation can be made within a period of 15 days from the date of promulgation of the said seniority list. The applicant has filed her representation dated 06.02.2002, against the same and after waiting for six months she had resorted to filing of this O.A.

4. On the other hand the official respondents while admitting the position regarding the issuance of the impugned notice, have countered the facts and grounds raised in the O.A. Separate reply has also been filed on behalf of the private respondent.

5. The applicant has filed rejoinder to the reply. Additional reply to the rejoinder has also been filed by the official respondents to which no cognizance can be given as per the para 32 of the Central Administrative Tribunals (Rules of Practice) 1993.



6. At the very out set, the learned counsel for the official respondents took an objection regarding the maintainability of this O.A. and have submitted that the impugned order in this case is only a notice and the representation of the applicant has not yet been decided and thus the O.A itself is premature. To this the learned counsel for the applicant has submitted that she had submitted a representation against the proposed amendment and waited for six months as per Sec. 20 of the Administrative Tribunals Act, 1985, and finding no response she has filed this O.A and thus the O.A cannot be said to be premature.

7. We find from the records as well as the submissions made on behalf of the parties that the representation of the applicant has not yet been decided. As far as the contention of the learned counsel for the respondents regarding the availing of alternative remedies, we find no fault in approaching this Tribunal by the applicant and her action is in consonance with Sec. 20 of the Administrative Tribunals Act, 1985. On the otherhand we also find that the O.A came to be admitted on 22.10.2003 and as per the mandatory provisions of Sec. 19(4) of the Administrative Tribunals Act, 1985, the official respondents could not have decided the representation until it was so permitted specifically by this Tribunal. In the first instance we proposed to permit the respondents to decide the representation of the applicant keeping the O.A pending. But after hearing the submissions made on behalf of the respondents, we felt persuaded that in case the representation is decided in either way, the matter would give fresh cause of action i.e. either the applicant would have to amend the O.A or else the private respondent would have to resort to filing of O.A.



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8. Keeping in view the entire fact and circumstances of this case we have come to the conclusion that the ends of justice would be met if the representation of the applicant is decided by the respondents in a time bound manner. In this view of the matter, we dispose of this O.A with the following order:

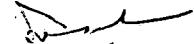
i) The Original Application is allowed in part and the official respondents are directed to take a final decision on the representation dated 06.02.2002 at Annex. A/6 through a speaking order examining all the points mentioned therein within a period of two months from today(13.07.2004) and communicate the result to the applicant.

It is scarcely necessary to mention here that since we have not decided this O.A. on merits, the applicant would have liberty to challenge the order which may be passed on her representation, if she is so advised. In the facts and circumstances of this case, all the parties are directed to bear their own costs.



(J.K. Kaushik)

Judicial Member.



(S.K. Agrawal)

Administrative Member.

jsv.