

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 29.11.2004

OA No.415/2003

Dinesh Parashar s/o Shri Nathilal Parashar, aged 50 years, Helper Khallasi, Electrical Department of the West Central Railway, Kota Division r/o Railway Quarter No. RE-12/B, Old Railway Colony, Kota Jn. 324002.

.. Applicant

Versus

1. Union of India through the General Manager, West Central Railway, Jabalpur.
2. Divisional Railway Manager, W.C.Railway, Kota Division, Kota.
3. Sh. Satya Narain, Helper Khallasi, working in the office of the Shop Superintendent, Train Lighting, Railway Electrical Department, Kota W.C. Rly.
4. Shri Radheshyam, Helper Khallasi, Train Lighting Staff, Railway Kota.
5. Shri Umed Singh, Helper Khallasi, Train Lighting Staff, Railway Kota.

..Respondents

Mr. C.R.Premi, counsel for the applicant

Mr. S.S.Hasan, counsel for respondents

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

HON'BLE MR. A.K.BHANDARI, MEMBER (ADMINISTRATIVE)

O R D E R (ORAL)

The applicant who is working as Helper Khallasi has filed this OA against the final seniority list Ann.A1 whereby the applicant has been shown junior to respondent Nos. 3,4 and 5 in the seniority list of Helper Khallasi in the pay scale of



Rs. 2650-4000 and has prayed that the seniority list Ann.A1 be quashed and respondent Nos. 3,4 and 5 be declared junior to the applicant and he be assigned seniority in the cadre of Helper Khallasi in the pay scale of Rs. 2650-4000 w.e.f. 26.10.83.

2. The facts of the case are that the applicant was initially appointed in the railways in Electrical Department and posted as Khallasi in Group 'D' post on 29.9.81. Subsequently, he was promoted to the post of Helper Khallasi, Train Lighting staff in the pay scale Rs. 210-290 (revised to Rs. 2650-4000) on 26.10.83. In the seniority list, the name of the applicant was fixed as Sl.No.82 above respondent Nos. 3,4 and 5 vide provisional seniority list dated 20.12.85 (Ann.A2). Subsequently, the applicant sought reversion to the post of Khallasi in the lower scale of Rs. 750-940 and sought his posting in the Railway Air Conditioning (RAC) staff vide application dated 13.4.90 and accordingly he was reverted to the post of Khallasi in lower pay scale of Rs. 750-940 from the higher pay scale of Rs. 800-1150 of Helper Khallasi and was posted under the control of Senior Electrical Foreman (RAC) Kota. On account of such reversion, the seniority of the applicant in RAC department was fixed in accordance with para 312 of the Indian Railway Establishment Manual (IREM) Part-I, (1989 Edition). Thereafter a policy decision was taken by the respondents to merge the cadre of employees working under Trains Lighting and RAC Department vide Head Office, Churchgate, Mumbai letter dated 18.3.2002 and their seniority was merged and seniority position of the working employees was shown on the basis of their date of promotion on the concerned post viz Senior Khallasi. Accordingly, seniority list dated 3/6.6.2002 was issued whereby the date of appointment of the

applicant shown as 29.9.91 was rectified and vide subsequent letter dated 10.7.2003, the correct date was shown as 29.9.81 in place of 29.9.91. Vide impugned order Ann.A1 date of appointment of the applicant has been shown as 29.9.91 instead of 29.9.81 and he has been shown junior to respondent Nos. 3,4 and 5. It is against this order, the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notices of this application were given to the respondents. The respondents have categorically stated that no doubt, the applicant was senior to the respondent Nos. 3,4 and 5 as per seniority list dated 20.10.85 (Ann.A2) where the date of appointment of the applicant as Khallasi has been shown as 29.9.81 and that of Helper Khallasi as 26.10.83 but according to the respondents, this seniority list pertains to Electrical Department. The applicant has sought reversion from the post of Helper Khallasi to that of Khallasi, in case he is posted in RAC Department which was entirely different cadre and the seniority list was to be maintained separately. The respondents have placed on record, copy of the application dated 13.4.1990 (Ann.R1) whereby the applicant has sought revision in the pay scale of Rs. 750-940 and desired to be posted as Coach Attendant in the RAC Department. Pursuant to such application, the applicant was reverted to the lower post of Khallasi in the scale of Rs. 750-940 and was posted under the control of Senior Electrical Foreman (RAC), Kota vide order dated 23.8.90. Copy of this letter has also been placed on record as Ann.R2. Thus, the seniority of the applicant in RAC department was fixed in accordance with para 312 of the IREM Part I (1989 Edition). Admittedly, as on 23.8.1990, the respondent Nos. 3,4 and 5 were in the higher pay scale of Rs. 800-1150 though in different department i.e. Electrical

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Department. According to respondents, since the applicant has sought reversion to the lower post and accepted seniority in the cadre of Khallasi in RAC department in terms of para 312 of IREM and he was subsequently promoted to the post of Helper Khallasi in the RAC department in the pay scale of Rs. 800-1150/2650-4000 on 25.1.96, thus, he cannot be treated senior to respondent Nos. 3, 4 and 5, who were promoted to such post on 26.10.1983 on account of merger of these cadres subsequently vide policy decision dated 18.3.2002 (Ann.R3) taken by the railway authorities.

4. The applicant has not filed rejoinder and the averments made by the respondents in the reply remained unrebutted.

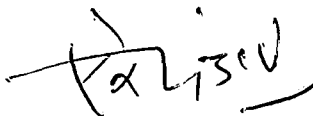
5. We have heard the learned counsel for the parties and have gone through the material placed on record.

5.1 Admittedly, the applicant was senior to respondent Nos. 3 to 5 in the grade of Helper Khallasi scale Rs. 800-1150/2650-4000 in Electrical Department, as can be seen from the seniority list dated 20.12.85 (Ann.A2), but it is also clear from the material placed on record that the applicant has sought reversion from the post of Helper Khallasi to that of Khallasi in the lower scale and requested for posting in the RAC department vide his application dated 13.4.90. Accordingly, the applicant was reverted to the post of Khallasi in the lower pay scale of Rs. 750-940 and posted under the control of Senior Electrical Foreman (RAC), Kota. Further, his pay was also fixed vide letter dated 25.10.90 in the lower pay scale of Rs. 750-940 at Rs. 870/-. Thus, in view of this development, the applicant cannot be heard to say that he should be assigned seniority over and above respondent No. 3,

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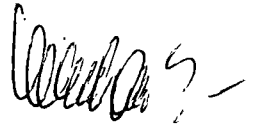
4 and 5, who were continuously holding the post of Senior Helper Khallasi w.e.f. 26.10.83 whereas the applicant who was reverted to the post of Khallasi was again promoted to the post of Helper Khallasi/Senior Khallasi on 25.1.96 almost after more than 12 years from the date the respondents 3 to 5 were holding the post of Helper Khallasi. Thus, on merger of two cadres pursuant to the policy decision taken by the respondents vide letter dated 18.3.2002 (Ann.R3) whereby the seniority was to be issued from the date of appointment in the cadre, the action of the respondents cannot be faulted if the applicant has been shown junior to respondent Nos. 3 to 5 as the applicant has himself sought reversion to the lower post of Khallasi and he was promoted as Senior Khallasi after a lapse of more than 12 years. As such his services as Khallasi in RAC Department cannot be treated as service rendered by the applicant on the post of Senior Khallasi and thereby regaining seniority over and above respondent Nos. 3 to 5.

5.2 Accordingly, the present OA is totally bereft of merit and is dismissed with no order as to costs.



(A.K.BHANDARI)

Member (A)



(M.L.CHAUHAN)

Member (J)