

Central Administrative Tribunal
Jabalpur Bench

OA No.356/05

Tuesday this the 4th day of April, 2006.

C O R A M

Hon'ble Mr.M.A.Khan, Vice Chairman

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Anokhelal

S/o Fritu Singh

R/o TRD Saliya Depot

Saliya, Dist. Katni (MP)

Applicant

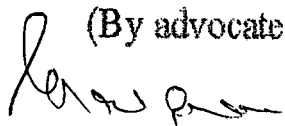
(By advocate Mr.Ashish Rawat
on behalf of Mr. B.K.Rawat)

Versus

1. Union of India through
Secretary
Railway Board, Rail Bhawan
New Delhi.
2. General Manager
West Central Railway
Jabalpur.
3. Divisional Rail Manager
West Central Railway
Jabalpur.
4. Senior Divisional Personnel Officer
West Central Railway
Jabalpur.
5. Shrieladhar Sukhmandi
Lineman I, M.C.M.
West Central Railway
Sagar (MP).
6. Shri Kripa Shankar
Lineman I, M.C.M.
West Central Railway
Damoh (M.P.)

Respondents

(By advocate Mr.H.B.Shrivastava)



ORDER

By M.A.Khan, Vice Chairman

The applicant is challenging the seniority list of Lineman Grade I issued by circular dated 21.7.2004 and is seeking a direction to the respondents to fix the applicant's seniority in the grade of Lineman Grade I in accordance with rules.

2. The allegations of the applicant in the OA are that he was appointed on 22.4.1981 in steam cadre and was later on re-deployed in TRD cadre in Jabalpur Division. Applicant and respondents 5 & 6 were promoted as Lineman Grade III on 20.8.95, the date of appointment of respondent 5 being 25.12.1981 and that of respondent 6 being 6.5.1984. The applicant and the respondents 5 & 6 were further promoted as Lineman Grade II on 28.7.99 and again to the post of Lineman Grade I on 11.5.2000. Respondents thereafter issued the seniority list of Lineman Grade I vide circular dated 21.7.2004 in which the name of the applicant did not figure but the name of his junior was mentioned. Applicant filed objection against this seniority list on 3.8.2004 and on 10.11.2004, to which the respondents replied that there were 7 posts in the TRD office, out of which 6 were meant for regular grade and 1 for SC/SF and all these posts were filled according to the seniority. Applicant is still aggrieved and has asserted that he was entitled to be promoted to the post of MCM Lineman Gr.I.

3. In the counter reply, the respondents have stated that the applicant was initially appointed as Ladderman on 22.4.1981. He subsequently requested for a change of his cadre as Shed Khalasi (SKR), which was accepted on normal terms and conditions of accepting bottom seniority in the new cadre of SKR, and he was assigned seniority as SKR w.e.f. 22.9.82, which was correct as per seniority rules. The applicant and private respondents 5 & 6 were absorbed in the newly created TRD (Traction Rolling Depot) and they were assigned seniority according to total length of service rendered in stream shed, from where they were declared surplus and absorbed

M.A.Khan

in TRD cadre. The TRD cadre was closed in the year 1999 and a seniority list was published and circulated on 29.11.99 in respect of Lineman Grade II Rs.4000-6000. Private respondent 5 who was of general category was shown at S.No.4 while the applicant's name was at Sl.No.9. Private respondent No.6 who belongs to SC was shown at S.No.14. The applicant and private respondents 5 & 6 were subsequently promoted as Lineman Grade I on the same date viz. 11.5.2000 and as private respondent 5 was already senior in lower grade having been promoted on 28.7.97 and the applicant on 28.8.97. Their inter-se seniority was maintained on next promotion to the grade of Rs.4500-700 though all of them were promoted on the same date. It is submitted that as a result of restructuring of the cadre of Group 'C' and 'D' staff as communicated by the Railway Board vide its letter dated 9.10.2003, 7 posts of Master Craftsmen/Linemen in scale Rs.5000-8000 became available in the cadre of the applicant and the private respondents. These posts were required to be filled up by way of modified selection and as per instructions of the Railway Board reservation of SC/ST was required to be given as per model roster circulated by the Railway Board. As per roster point of 7 posts, 1,2 & 3 were required to be filled up by general category candidates; the 4th was earmarked for SC candidate and again 5 & 7 were earmarked for general category candidates. In the promotion order dated 21.7.2004 all the 7 posts were filled up viz. 6 posts by general category candidates and one post by SC candidate. Private respondent 5 was promoted taking his seniority as a general candidate. Private respondent 6 though junior to the applicant was promoted against roster point for SC candidate.

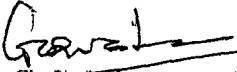
4. We have heard learned counsel for the parties and perused the records.

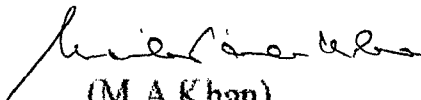
5. The seniority list of Lineman Grade I is filed by the applicant as also by the respondents and the positions assigned in it to the applicant and the respondents 5 & 6 are not in dispute. The seniority list of Lineman Grade II is annexed as R-1 to the counter reply in

Signature

which the name of the applicant appears at S.No.9 and that of respondent No.6 is at S.No.14. Respondent No.5 is at S.No.4. The parties agreed that there were 7 vacancies and as per the roster, 6 were to be filled up from unreserved candidates and one from the category of SC. The applicant belongs to ST category. It is not argued before us that ^{to} these 7 posts principles of reservation for Scheduled Castes and Scheduled Tribes are not attracted. The contention of the applicant that he has a preferential right to promotion as against the right of respondent 6 is devoid of any merit. 7th vacancy was reserved for SC candidate and respondent No.6 being the next candidate available in SC category had to be appointed to that post. None of the post was reserved for ST candidate and the applicant being an ST candidate or any other general candidate could not have been appointed to the 7th vacancy, ignoring the claim of respondent 6 who was available. In the seniority list at R-1 at SL.No.1 is Soutaram who is also an ST candidate. There is no dispute that he had already been promoted. The applicant could not have been appointed to the 7th vacancy on the basis of his seniority when the vacancy was reserved for an SC candidate who was available and has been rightly promoted as per roster based reservation. Since application of reservation policy for SC/ST for filling up of these 7 vacancies is not question^{ed} before us the selection of respondent No.6 as per roster will be perfectly legal in accordance with the principles of law laid down by the Hon'ble Supreme Court in R.K.Sabharwal Vs. State of Punjab (1995) 29 AT Cases, 481.

6. In view of the above discussion, we do not find merit in the OA. Accordingly the OA is dismissed. Parties to bear their costs.


(Dr. G.C. Srivastava)
Vice Chairman


(M.A. Khan)
Vice Chairman

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पृष्ठकन सं ओ/व्या.....जबलपुर, दि.....
पतिविविध काको नित:-

- (1) उल्लिखित पत्र के माध्यम से जलपुर
- (2) जलपुर के जलपुर के जलपुर
- (3) जलपुर के जलपुर के जलपुर
- (4) जलपुर के जलपुर के जलपुर

B.K. Rawat ADV 238
H.B. Sharma ADV 239
ADV 238

उम रजिस्ट्रार

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