

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT COURT SITTING AT BILASPUR

Original Application No. 1128 of 2004

Bilaspur, this the 19th day of September, 2005

Hon'ble Mr. M.P. Singh, Vice Chairman

Hon'ble Mr. Madan Mohan, Judicial Member

1. Mahesh Kumar Morchnale
S/o Shri M.L. Morchnale,
Aged about 37 years,
Junior Engineer/II/Bridge,
Gondia, O/o Section Engineer,
Gondia.
2. Naresh Kumar,
S/o Shri Shree Chand,
Junior Engineer/II/Bridge,
Shahdol, R/o Gr.No.192/2
Near Railway Football Ground,
Railway Colony,
Shahdol (MP)

APPLICANTS

(By Advocate - Shri S.Paul)

VERSUS

1. Union of India,
Through General Manager,
South Eastern Central Railway,
Bilaspur.
2. Chief Personnel Officer,
South Eastern Central Railway,
Bilaspur.
3. Chief Engineer (Construction),
South Eastern Central Railway,
Bilaspur.
4. Ramakant Shrivastava,
BRI/under Sr. DEN (CO-ordination)
South Eastern Central Railway,
Nagpur.
5. R.K. Mishra,
BRI/Under Sr. DEN (Constn)/Raipur,
South Eastern Central Railway,
Raipur.
6. A.K. Gupta,
BRI - Gr.III under CE (Constn),
South Eastern Central Railway,
Bilaspur.

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

MA No.1425/05 for joining together is considered and is allowed.

2. Heard the learned counsel for the parties. The learned counsel for the respondents submitted that the short reply filed by the respondents be treated as detailed reply. Although this case was listed for orders, with the consent of both the parties, we have heard the present OA finally.

3. By filing this OA, the applicants have sought the following main reliefs :-

"(ii) Set aside the seniority list AnnexrueA/1 and the order dated 19.10.2004 (Annexrue-A/2).

(iii) Upon holding that the private respondents cannot be placed in the seniority over and above the applicants, command the respondents to draw a fresh seniority list in accordance with rules and place the applicants senior to the private respondents and thereafter provide all consequential benefits to the applicants in the event any further promotions are made

4. The brief facts of the case are that R.K. Mishra and Ajay Gupta, who are private respondents in the present OA had earlier filed an OA No.401/2002 before this Tribunal seeking a direction to the respondents "to fix the seniority of the applicants also in cadre of Open Line Establishment on par with their other batch mates basing on merit/seniority order of select list furnished to the respondents by Railway Recruitment Board, preceding offer of employments with all incidental benefits retrospectively". and the Tribunal had passed the following order on 8.12.2003 in the aforesaid OA :-

"9. We have considered the submissions made by both the parties and the pleadings before us. We find that the grievance of the applicants was that they were working as Junior Engineer in the Construction Division but no lien was fixed in the open line. Now the respondents have fixed the lien in the Open Line and since the respondents have not denied the fact that the applicants have been appointed with the approval of the Railway Recruitment Board as Junior Engineer w.e.f. 24.1.1994, the lien of the applicants in the Open Line shall be maintained from that date.

10. As regards the seniority, the respondents are directed to fix the seniority of both the applicants in accordance with rules and law within a period of six months from the date of receipt of copy of this order."

In pursuance of the above directions the respondents have fixed the seniority of both the applicants in the aforesaid OA No.401/02, as per notified list dated 15.6.2004 (Annexure-A-1). We find from the said seniority list that the private respondents are placed at Sr.No.2 and 3 whereas the applicants are placed at Sr.Nos.4 and 5. The applicants in the present OA made a representation requesting the respondents to fix their seniority correctly. However, the respondents vide order dated 19.10.2004 (Annexure-A.2) have rejected the representation of the applicants and have informed them that "the seniority of the staff come construction orgination(sic) has been fixed as per Hon'ble Court's order". We also find from the order dated 8.12.2003 passed by this Tribunal in the aforesai OA that the Tribunal had only directed the respondents to fix the seniority of the applicants in accordance with rules and law. The Tribunal had never given the direction to the respondents to fix the seniority of the applicants in that OA above the the applicants in the present OA.

5. Keeping in view all the facts and circumstances of the case we are of the considered view that the seniority list dated 15.6.2004(Annexure-A-1) and the order dated 19.10.2004 (Annexure-A-2) are liable to be quashed. Accordingly, the Annexure-A-1 and Annexure-A-2 are quashed and set aside. The respondents are directed to fix the seniority of the applicants as well as private respondents in accordance with the provisions of IREM and other rules and instructions issued by the Government from time to time within a period of 4 months from the date of receipt of a copy of this order

6. With the above direction, the OA stands disposed of. No costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman