

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR

Original Applications No 1142 of 2004

Indore, this the 17<sup>th</sup> day of November, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

B.K. Thakur  
S/o Late Shri R.N. Thakur  
Aged 54 year  
Head Clerk, Personnel,  
Branch, C.P.O Office,  
West Central Railway,  
Jabalpur

Applicant

(By Advocate – Shri Rishi Kumar on behalf of Shri R Maindiretta)

V E R S U S

1. Union of India,  
Department of Railways,  
Rail Bhawan,  
New Delhi.
2. General Manager, West Central Railway,  
Jabalpur, (M.P.)
3. Deputy Chief Personnel Officer (G)  
West Central Railway,  
Jabalpur, (M.P.)
4. Shri Sandeep Verma  
Office Superintendent Grade-II,  
Chief Personnel Officer's Office  
West Central Railway,  
Jabalpur (M.P.)
5. Smt. Leena Dayal,  
Office Superintendent Grade-II,  
Chief Personnel Officer's Office,  
West Central Railway,  
Jabalpur, (M.P.)

Respondents

(By Advocate – Shri M.N.Banerjee)



O R D E RBy Madan Mohan, Judicial Member -

By filing this Original Application, the applicant has sought the following main reliefs :-

"(i) Direct the respondents to promote the applicant to the post of Head Clerk with effect from 23.9.2003 and thereafter to the post of Office Superintending Grade-II with effect from 25.11.2004.

(ii) Direct the respondents to assign seniority in the cadre of Head Clerk and Office Superintendent Grade-II over and above the respondent nos.4 and 5;

(iii) Direct the respondents to prepare inter-se seniority list taking into consideration the functional date of West Central Railway, Jabalpur i.e. 1.4.2003."

2. The brief facts of the as stated by the applicant are that that the applicant was promoted to the post of Senior Clerk on 10.2.1992 at Jhansi Division. The respondents No.4 and 5 were respectively promoted as Senior Clerk on 20.5.1993 and 3.7.1995 in Jabalpur Division. The applicant opted to serve in the West Central Railway, Jabalpur and accordingly he joined on 23.6.2003. According to the applicant as per the notification issued by the Railways department, the inter-se seniority was required to be determined as on 1.4.2003 when the cadre was open till 31.10.2003 i.e. when the cadre was closed. The respondents without preparing the inter-se seniority as on 1.4.2003, promoted the respondent Nos 4 and 5 initially to the post of Head Clerk on 23.9.2003 and subsequently on the post of Office Superintendent Grade-II on 25.11.2004 ignoring the seniority and claim of the applicant. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.

4. It is argued on behalf of the applicant that the respondents should have initially prepared the inter se seniority list according to



the notification dated 16.8.2002 (Annexure-A-3) and thereafter ought to have resorted to the promotion of the employees in accordance with their seniority. He has also stated that the applicant was promoted to the post of Sr. Clerk on 10.2.1992 at Jhansi Division and the private respondents Nos.4 and 5 were promoted on 20.5.1993 and 3.7.1995 respectively in Jabalpur Division. The respondents without preparing the seniority list promoted the private respondent Nos. 4 and 5 to the post of Head Clerk vide order dated 23.9.2003 ignoring the seniority and claim of the applicant. The respondents could not have promoted the respondents Nos.4 and 5 to the aforesaid post after 1.4.2003 i.e. when the cadre was open without preparing the inter-se seniority list of the employees. After promotion of private respondents Nos 4 and 5 on the post of Head Clerk the applicant immediately submitted representations dated 16.8.2002 and 22.9.2003, but the respondents did not consider it. Again the respondents without taking into consideration the representations of the applicant and without preparing the inter-se seniority list vide order dated 25.11.2004 further promoted the private respondents No.4 and 5 on the post of Office Superintendent Gr.II ignoring the seniority and claim of the applicant. The applicant again submitted representation dated 10.12.2004 against the said promotion of private respondents Nos 4 and 5. However, the respondents have not considered the representations of the applicant and deprived his genuine claim. The action of the respondents is totally illegal and unjustified and not sustainable in the eyes of law.

5. In reply the learned counsel for the respondents argued that on creation of New Railway Zone, Jabalpur known as West Central Railway w.e.f. 1.4.2003 options were called from staff working in all India Railways from different places willing to work at newly created Railway zone at Jabalpur. Applicant who was working as Senior Clerk at Jhansi Division of Central Railway opted for New Railway Zone at Jabalpur and joined at Jabalpur on 23.6.2003. The private respondents No.4 and 5 who were working as Sr.Clerk at Jabalpur



division also opted to work in West Central Railway Jabalpur and joined as Senior Clerks on 9.4.2003 and 1.7.1998 (sic). The learned counsel for the respondents also argued that the aforesaid cadre was open upto 31.10.2003 and during this period employees continued have to maintain their lien at their parent divisions/organizations till closure of cadre. The applicant had his lien at Jhansi Division and private respondents No.4 & 5 retained their lien at Jabalpur division. Seniority position of West Central Railway were settled/determined in each grade on the basis of non-fortuous length of service in the grade as on 31.10.2003 i.e. the date of closure of cadre. He further argued that during the period when cadre was open the private respondents No. 4 and 5 got promotion in their parent seniority unit i.e. Jabalpur division as Head Clerk according to their seniority which was maintained by DRM (P) Jabalpur before closure of cadre. The promotion order was issued by Jabalpur division on 15/18.9.2003 and accordingly the promotion order of private respondents No.4 & 5 were issued by the office of CPo/WCR/JBP on 23.9.2003. The applicant was placed at Sr.No.3 in seniority list of Sr. Clerk and seniority position of private respondents No.4 and 5 were at Sr. No. 5 and 6 in seniority list of Head Clerk. Thereafter respondents No.4 & 5 got promotion as Office Superintendent Gr.II in the scale of Rs.5500-9000 and the applicant got promotion as Head Clerk in the scale of Rs.5000-8000/- The learned counsel for the respondents further argued that the applicant has not challenged the order passed by Jabalpur division dated 15/18.9.2003 on the basis of which the order dated 23.9.2003 was passed. Divisional Rly. Manager (P) Jabalpur has not been implemented as party as such the OA deserves to be dismissed on this ground.

6. After hearing the learned counsel for both the parties and on careful perusal of the records, we find that before joining the Jabalpur division the applicant was working as Sr. Clerk at Jhansi Division of Central Railway whereas the private respondents Nos. 4 and 5 were

working as Sr. Clerk at Jabalpur division before closure of the aforesaid new cadre on 31.10.2003. The private respondents No. 4 and 5 had got promotion as head clerk in Jabalpur division, which was maintained by DRM (P) Jabalpur before closure of cadre. The promotion was issued by Jabalpur division on 15/18.9.2003. The applicant has not challenged the order dated 15/18.9.2003 on the basis of which the order dated 23.9.2003 has been passed. The cadre of West Central Railway was open upto 31.10.2003 and during this period employees continued have to maintain their lien at their parent division/organization. Till the closure of the cadre, the applicant had his lien at Jhansi Division and private respondents No. 4 and 5 retained their lien at Jabalpur division. The arguments on behalf of the respondents that the seniority position of West Central Railway was settled/determined in each grade on the basis of non-fortuitous length of service in the grade as on 31.10.2003 i.e. the date of closure of cadre seems to be correct, as the applicant had his lien at Jhansi division and he opted new Railway zone known as West Central Railway.

7. Considering all the facts and circumstances of the case, we are of the considered opinion that this OA has no merit. Accordingly, the same is dismissed. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

Skm

प्रशंकन से ओ/व्या..... जबलपुर, दि.....  
प्रतिलिपि दि.....  
(1) रामनाथ दिल्ली, जबलपुर  
(2) विजय दिल्ली, जबलपुर  
(3) जयराम दिल्ली, जबलपुर  
(4) विजय दिल्ली, जबलपुर  
प्रशंकन के अधिकारक जबलपुर, दि.....  
प्रधान सचिव

R. M. M. D. / 22  
M. P. Singh / 2003  
J. M. D. / 2003  
P. C. / 2003

  
T. S. D. / 22/11/03