

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR

Original Application No. 701 of 2004

Indore, this the 26<sup>th</sup> day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Ms. Sadhna Srivastava, Judicial Member

Umesh Kumar Saware,  
S/o Shri G.M.Saware,  
Aged about 33 years,  
R/o B/81-B, East Railway  
Colony, Bina, District Sagar(M.P.)

Applicant

(By Advocate – Shri V.Tripathi)

**V E R S U S**

1. Union of India,  
Ministry of Railway,  
Through General Manager,  
West Central Railway,  
Indira Market,  
Jabalpur.

2. Divisional Railway Manager,  
West Central Railway,  
Bhopal Division,  
Bhopal.

3. Shri Chandra Shekhar Chouksey,  
Office Superintendent Gr.II(SNT),  
C/o Divisional Railway Manager,  
West Central Railway,  
Bhopal.

Respondents

(By Advocate – Shri S.P.Sinha)

**O R D E R**

By M.P. Singh, Vice Chairman –

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

“(ii) Set aside the order dated 6.4.2004 Annexure A/1, 29.6.04 Annexure A/2 and 10.6.2003 Annexure A/4.



(iii) Command the respondents to assign seniority to the applicant over and above the private respondent and accordingly consider and promote him on the post of OS-1 from the date the private respondent is promoted".

2. The brief facts of the case are that the applicant was initially appointed as Senior Clerk (Rs.4500-7000) w.e.f. 24.10.1986 on the basis of selection made by the Railway Recruitment Board, Bhopal. He became Head Clerk on promotion on 20.12.1990 in the pay scale of Rs.5000-8000. He was further promoted to the post of Office Superintendent Gr.II (Rs.5500-9000) on 28.1.1994. The applicant submits that the post of Office Superintendent Gr.II (for short 'OS Gr.II') is a selection post in which the applicant and private respondent both were considered and selected. Since there was only one post of OS Gr.II the private-respondent could not be promoted as OS Gr.II at that time. Subsequently vide order dated 5.6.2000, the private-respondent was selected and appointed as OS Gr.II. On 26.12.2003, the department published a seniority list of OS Gr.II in which the name of the applicant appears at serial no.2 whereas the name of private-respondent appears at serial no.4. It appears that some OA was filed before this Tribunal and in compliance with the direction of the Tribunal, a notice dated 10.6.2003(Annexure-A-4) was issued. In the notice it was stated that Shri Chandra Shekhar Chouksey, private-respondent who was also a direct recruit through Railway Recruitment Board, Bombay will be placed over and above the applicant in the matter of seniority on the ground that the notification issued by RRB, Bombay for selection to the post of Senior Clerk was earlier in time than the notification issued by the RRB, Bhopal. According to the applicant he was shown senior to private respondent for more than 15 years continuously and it is a settled law that seniority cannot be altered after a considerable long time and settled things cannot be unsettled on the behest of the belated representation of an employee. On the basis of altered seniority, the

private-respondent has been promoted as O.S.Gr.I vide order dated 29.6.2004(Annexure-A-2). Hence, this Original Application.

3. The respondents in their reply have submitted that the seniority of respondent no.3 was rectified on the basis of the decision rendered by this Tribunal in OA No.716 of 1991(Dinesh Kumar Harijan & 6 Ors. Vs. Union of India and 15 others) decided on 18.4.1996(Annexure-R-1). The promotion of the applicant was made on the basis of a wrong seniority and hence on the representation made by the respondent no.3, of which notice was given to the applicant and after considering the facts, the order dated 10.6.2003 was passed. Thus, there is no illegality in the order and the challenge is unwarranted.

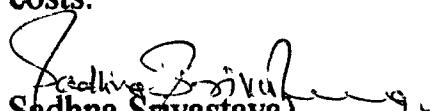
4. Heard the learned counsel of both the parties and carefully perused the pleadings.

5. Since it is not in dispute that the notification of RRB, Bombay was issued on 8.5.1984 and the notification of RRB, Bhopal through which the applicant was selected was issued on 6.9.1984, the private-respondent no.3 although appointed later on is senior to the applicant in terms of decision of this Tribunal dated 18.4.1996 in O.A. 716/1991 wherein it has held clearly held that those selected on the basis of earlier notification will rank senior to those selected on the basis of subsequent notification. We find that the facts in O.A.716/1991 are similar to that of the present O.A. In OA 716/1991 also the applicant was selected through RRB Bombay for which notification No.1/84 was made on 8.5.1984 and the respondents 4 to 16 were appointed in pursuance of the result of RRB Bhopal for which a notification No.1/84 was made on 6.9.1984. We respectfully agree with the earlier judgment of this Tribunal dated 18.4.1996 in



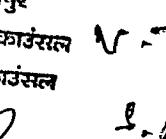
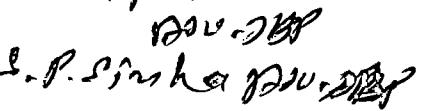
aforementioned O.A.716/1991 and in this view of the matter, the present O.A. is liable to be dismissed.

6. In the result, the O.A. is dismissed, however, without any order as to costs.

  
(Ms. Sadhna Srivastava)

Judicial Member

  
(M.P. Singh)  
Vice Chairman

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परिविधि दाये हितः—  
(1) सर्टि, उच्च वकाराल दर एवं विभाग, जबलपुर  
(2) अमोन, विभाग, जबलपुर  
(3) प्रत्यावी, विभाग, जबलपुर  
(4) विधायक, विधायक, विधायक, जबलपुर  
सूचित एवं आवश्यक दण्डाद, देतु    
उप रजिस्ट्रर 10-5-92

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