

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 784 of 2004

Indore, this the 26th day of April, 2005.

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

Neeraj Kumar Singh, son of
Keshav Singh, aged about 28
Years, resident of Wadhwa
Bhawan, Ashok Colony, Near
Central Bank of India, Katni
(M.P.)

Applicant

(By Advocate – Shri S.K. Rawat)

V E R S U S

1. The Union of India, through
The Secretary, Railway Board,
New Delhi.
2. The General Manager, Central
West Railway, Jabalpur
(M.P.)
3. The Divisional Railway
Manager, Central West,
Railway, Jabalpur(M.P.)

Respondents

(By Advocate – Shri H.B. Shrivastava)

O R D E R

By M.P. Singh, Vice Chairman –


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

“(i) It is, therefore, prayed that this Hon'ble Tribunal may kindly be pleased to quash the order No.JBP/P/TFC/OA 820/2001 dated 14.6.2002 and for issuance of suitable direction/order directing the respondents to grant the seniority in the cadre of Assistant Yard Master from the date of joining the training as Traffic Apprentice and to count the seniority in the cadre with retrospective effect and to grant all consequential



benefits. It is also prayed to quash the order dated 1.12.1999 issued by the Divisional Railway Manager (P) assigning the seniority with effect from 16.7.1999 only to the extent of fixation of seniority".

2. The brief facts of the case are that the applicant was appointed as Traffic Apprentice in Jabalpur Division. After his selection he was sent for training from 12.5.1997 vide order dated 8.5.1997 (Annexure-A-1) After successful completion of training for the period of two years, he was posted on regular basis as Assistant Yard Master. The applicant has been assigned seniority with effect from 16.7.1999. In the seniority list the period of two years spent during training has not been counted. According to the applicant, during the training period he has been granted regular scale of pay and he was also discharging the duties of the cadre. Even the increments have also been granted along with the regular pay scale. Since he had not been granted seniority w.e.f. 12.5.1997 i.e. from the date of joining the training, he had submitted his representations on 12.1.2001 and 2.3.2001. As per the notification the pay of the Traffic Apprentice was Rs.1600-2600 but during the training period the applicant has been granted the salary in the pay scale of Rs.1400-2300. Earlier, the applicant had filed an O.A.No.820/2001 and this Tribunal vide its order dated 14.3.2002 disposed of the said O.A. with a direction to the respondents to dispose of the representation of the applicant. Thereafter, the respondents have passed the final order dated 14.6.2002 rejecting the representation of the applicant. The applicant has also contended that the Jaipur Bench of the Tribunal in O.A.No.188/91 decided on 18.12.1996 (copy placed on record) has granted the same benefits, however, the respondents in their reply while considering his representation have stated that the same is applicable in favour of the applicant of the said case only. Aggrieved by this, the applicant has filed this O.A. claiming the aforementioned reliefs.



3. The respondents in their reply have stated that the applicant was offered the appointment on 12.5.1997 and after passing the required medical examination he was appointed as Traffic Apprentice on the basis of terms and conditions stipulated in the appointment order. The applicant was required to undergo training for two years at various centers in various stations and depot during this period of two years on payment of stipend as per the terms of appointment and relevant rules on the subject. The respondents have further submitted that the last phase of training was imparted to such apprentices at the zonal Headquarters followed by final examination (written and viva voce) conducted by a committee consisting of Junior Administrative Grade Officers of Zonal Headquarters. Thereafter, cadre allotment is done by the Executive Officers on the division viz. Senior Divisional Operating Manager/ Divisional Operating Manager with the approval of the respective Divisional Railway Manager based on the recommendations made by the selection committee in the final examination held at Headquarters level. The seniority of the Traffic Apprentice is determined in respective cadre from the date of issue of posting order by the divisions. These instructions are applied universally on all divisions as per the guidelines issued by the Chief Personnel Officer, Mumbai which are in conformity with the provisions as laid down in Para 302 read with Para 303(a) of the Indian Railway Establishment Manual (for short 'IREM'). The respondents in Para 4.3 of their reply have stated that the applicant has been granted increments during the training period as per revised instructions issued on 1.10.1990 and it has been clarified in these instructions itself that the training period will count for drawl of increments only. In view of these facts, the respondents have contended that this O.A. has no merit and is, therefore, liable to be dismissed.



4. Heard the learned counsel of both the parties and perused the pleadings carefully. We have also given careful consideration to the arguments advanced on behalf of both the sides.

5. The question for consideration in this O.A. is whether the applicant is entitled to count seniority from the date of appointment as Traffic Apprentice i.e. from 12.5.1997 or from the date he has successfully completed two years training. Para 303(a) of the IREM Vol.1 stipulates that "the candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts. Those who join the subsequent courses for any reason whatsoever and those who pass the examination in subsequent chances will rank junior to those who had passed the examination in earlier courses". Thus, from the above provisions it is clear that the seniority of the applicant is liable to be regulated in terms of para 303(a) ibid and is to be counted in the order of merit obtained by him in the examination held at the end of the training period before he was posted against the post of Assistant Yard Master. We may also observe that the applicant in this OA has also admitted that he was posted on regular basis as Assistant Yard Master only after successful completion of training for the period of two years. Therefore, he can be given seniority on the said post only after his joining the said post. In this view of the matter we are of the considered view that the applicant is not entitled for grant of seniority on the post of Assistant Yard Master w.e.f. 12.5.1997 i.e. from the date of his appointment as Traffic Apprentice, as claimed by him.

6. As regards the decision of Jaipur Bench of this Tribunal in O.A.No.188/91 dated 18.12.1996 is concerned, we find that following order has been passed in the said case:

"3. The short point for determination is that the applicant was a Trainee, then a Paid Apprentice and then a Diesel Assistant




with the Railways and that the date from which his entry in seniority into service should be counted. The question is no longer at large and it has already been decided by the Hon'ble Supreme Court in the case of M.P.Pradhan Vs.Union of India, AIR 1990 SC 891. The apex court held at page 892 that "joining as Paid Apprentice on a permanent basis cannot be anything else but entering Government service on permanent basis.

4. In these circumstances, the application is allowed and a direction is issued to the respondents that entry into Government service and the seniority of the applicant will be counted from 1.3.1989 with all consequential benefits such as eligibility for training etc."

We have perused the judgment of the Hon'ble Supreme Court in the case of M.P.Pradhan (supra) and we find that in the said case the question for consideration was "whether the appellant is governed by Fundamental Rule 56©(i) and as such entitled to superannuation at the age of 60 years" and their lordships in the said case have held that "the appellant was entitled to continue in Government service till he attained the age of 60 years". Accordingly, we find that the decision of the Hon'ble Supreme Court in the case of M.P.Pradhan does not relate to grant of seniority of trainees and, therefore, the same is not applicable. Only the provisions of Para 303(a) of the IREM are applicable and the respondents have correctly applied those provisions while granting the seniority to the applicant.

7. In the facts and circumstances of the case, we do not find any merit in this Original Application and the same is accordingly dismissed, however, without any order as to costs.


(Ms. Sadhna Srivastava)
Judicial Member


(M.P. Singh)
Vice Chairman