

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No.564/03

Jabalpur, this the <sup>16<sup>th</sup></sup> day of December, 2004

CO R A M

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

Madhura Prasad Dhusia  
S/o Late Shri B.L.Dhusia  
Station Master (S.M.)  
Kurwai Kathora  
Dist.Vidisha (M.P.)

Applicant

(By advocate Shri P.R.Bhave)

Versus

1. Union of India through  
General Manager  
Western Central Railway  
Jabalpur.
2. Divisional Railway Manager  
Western Central Railway  
Habibganj  
Bhopal.
3. Pradeep Kumar Singh  
Movement Inspector  
O/s Station Manager  
Bhopal.

Respondents

(By advocate Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following main reliefs:

- (i) Direct respondents 1 & 2 to fix seniority of the applicant over and above respondent No.3 with retrospective effect.

(ii) Direct the respondents 1 & 2 to grant selection grade (Higher Scale) of Assistant yard Master to the applicant from the date when his junior (respondent No.3) was granted and pay him all consequential benefits.

2. The brief facts of the case are that the applicant was recruited as Trains Clerk . As posts of Assistant Yard Master were vacant, applications were invited and qualifying examination was conducted on 1.10.90 and 10.10.90 and vide order dated 16.11.90 (Annexure A1) the applicant and respondent No.3 were appointed on the post of Assistant Yard Master. Applicant is placed at Sl.No.6 whereas respondent No.3 is placed at Sl.No.9. Applicant joined as Trains Clerk on 26.4.81 whereas respondent No.3 joined in the same capacity on 21.11.81. Thus it is apparent that applicant is senior to respondent o.3. Vide order dated 29.1.94 (Annexure A3) respondent No.3 was given the scale of promotional post essentially on the ground that his junior namely A.G.Khan was promoted as Yard Master vide order dated 14.12.90. Respondent No.3 was given proforma seniority over said Khan. Accordingly respondent No.3 was placed in the pay scale of Rs.2000-3200 by promoting him as Deputy Station Superintendent. The applicant sent a number of representations but the same have not been considered. Hence he has filed this OA.

3. Heard the learned counsel for the applicant who argued that apparently the applicant was senior to respondent No.3 as vide order dated 16.11.90 (Annexure A1), the applicant and respondentNo.3 were appointed as Assistant Yard Master. In this order, the applicant's name is at Sl.No.6 while the name of respondent No.3 is at Sl.No.9. and further the applicant had joined the railways as Trains Clerk on 26.4.81 while respondent No.3 joined the same post on 21.11.81. Hence apparently respondent No.3 was junior to the applicant. But vide order dated 29.1.94 (Annexure A3) respondent No.3 was given the scale of promotional post essentially on the ground that his junior one A.G.Khan was promoted as Yard Master vide order dated 14.12.90 and this order further reveals that respondent No.3 was given proforma seniority, while the promotion of the

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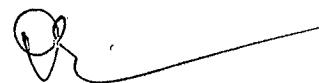
applicant is ignored. The applicant has made several representations but these were not considered by the respondents. The action of the respondents is against law and not at all justified.

4. In reply, learned counsel for the respondents argued that the applicant belongs to erstwhile Bhusawal Division where he was promoted in Grade Rs330-560 w.e.f. 1.1.84 vide letter dated 13.12.85 and due to formation of new Bhopal Division he was transferred w.e.f. 1.7.87 to Bhopal Division. Respondent No.3 belongs to erstwhile Jhansi division where he was promoted w.e.f. 26.7.82 vide letter dated 26.7.82. He was further promoted as Head Train Clerk w.e.f. 25.12.86 and transferred to newly formed Bhopal Division. Hence it is clear that respondent No.3 is senior to applicant. The learned counsel further argued that respondent No.3 had made representation that his junior had been granted promotion w.e.f. 14.12.90. The issued had been considered and decided in favour of respondent No.3 by awarding proforma promotion and seniority as per rule. Thus it is clear that the applicant cannot claim seniority over respondent No.3.

5. After hearing the learned counsel for the parties and careful perusal of the records, we find that the applicant is shown to be senior in comparison with private respondent No.3 in official order dated 16.11.90(Annexure A1) and also according to the letter dated 15.1.92 (Annexure A2), but respondent No.3 was promoted on 26<sup>th</sup> July 1982 in the grade of Rs.330-560 according to the original service records produced on behalf of the respondents, while the applicant was promoted in the same grade w.e.f.1.1.84 and again respondent No.3 was promoted as Head Train Clerk w.e.f. 25.12.86 in the grade of 425-640 in his parent division Jhansi. As the respondent No.3 had come to Jhansi Division, his seniority was not properly fixed against one A.G.Khan by Bhopal Division. On his representation, it was corrected vide order dated 27.1.94 (Annexure A3) which is not challenged by the applicant. Hence it has become final. This fact is also supported by the original records of

respondent No.3. Hence respondent No.3 was senior to the applicant. Bhopal is a newly created division and cadre was closed at the relevant time. The employees shall retain seniority in parent division only till closure of the cadre.

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



(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

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पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....  
य तितिरिषि अवै डित्तः—

- (1) सचिव, उच्च अदायालस कान्ह एसोसिएशन, जबलपुर
- (2) आलेक्टक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्ययी श्री/श्रीमती/कु.....के काउंसल
- (4) विधायक, केप्रा. जबलपुर व्यानारीठ  
सुचना एवं आवश्यक कार्यकारी फैलू

P.R. Bhave Adv. DBP

M.W. Bhave Adv.

DBP

उप रजिस्ट्रार

I served  
On 17.12.04  
By [Signature]