

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**JABALPUR BENCH**

**Original Application No. 612 of 2003**

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

**CORAM**

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

Abdul Rasheed  
S/o S.K.Peeru  
Shunting Jamadar  
New Yard, Itarsi Rly. Station  
West Central Railway  
Dist.Hoshangabad.

Applicant

(By Advocate – Shri V.Tripathi)

**V e r s u s**

1. Union of India, through  
its General Manager  
West Central Railway  
Jabalpur.
2. The Divisional Railway Manager  
West Central Railway  
Bhopal Division, Bhopal.
3. The Assistant Personnel Officer (T)  
O/o The Divisional Railway Manager  
West Central Railway  
Bhopal Division, Bhopal.
4. Raj Kumar Gosami  
Goods Guard Itarsi through  
O/o The Divisional Railway Manager  
West Central Railway  
Bhopal Division  
Bhopal.

Respondents

(By advocate Shri S.P.Sinha)

**O R D E R**

By Madan Mohan, Judicial Member



2. By filing this Original Application the applicant has claimed the following main reliefs :

- (i) Set aside the order dated 17.5.02 (Annexure A1); order dated 17.6.02/24.6.02 (Annexure A2) and order dated 31.10.02 (Annexure A3) to the extent it denies the regular promotion of the applicant as Shunting Jamadar from the date his junior/private respondents were promoted as Shunting Jamadar.
- (ii) Direct the respondents to place the applicant over and above the private respondents in the seniority list dated 10.2.94 (Annexure A6).
- (iii) Direct the respondents to promote the applicant on the post of Goods Guard from the date his juniors/private respondents were promoted.
- (iv) Direct the respondents to provide all consequential benefits including seniority to the applicant w.e.f. 22.3.93 as Shunting Jamadar.

3. The brief facts of the case are that the applicant who was initially appointed on 1.5.81 as Group 'D' employee was promoted as Lever Man w.e.f. 6.12.89 vide order dated 2.2.90 and further promoted as Shunting Jamadar (adhoc) vide order dated 22.3.93 (Annexure A5). In the seniority list published by respondent No.2 on 10.2.94 (Annexure A6) the name of the applicant is mentioned at sl.No.375 which is incorrect. The applicant appeared in the written test along with other candidates. The applicant is senior to private respondents. He had already lodged his protest against his incorrect placement in the seniority list vide his representation dated 25.2.94. However, the seniority list dated 10.2.94 was not corrected. Therefore, he was deprived of his legitimate claim of promotion as Shunting Jamadar. The applicant was reverted from the post of Shunting Jamadar vide order dated 3.1.96. His services were utilized by the department as Shunting Jamadar till December, 1997. The applicant filed along with the OA Annexure A10 chart showing the date of initial appointment/date of promotion etc. The chart clearly indicates that the applicant is senior to the private respondents. Feeling aggrieved by the non-selection as Shunting Jamadar, the applicant filed a detailed

representation on 6.2.95 (Annexure A11) and also filed an OA No.101/95. The aforesaid OA was finally heard by the Tribunal on 11.3.02 and the respondents were directed to decide the representation of the applicant dated 6.2.95. Thereafter, the applicant was promoted as Shunting Jamadar and his name was inserted at Sl.No.32 in place of one Mahesh in the select list dated 30.1.95 below Mohd. Hasan Khan. However, the seniority of the applicant was not corrected. In pursuance of the order dated 17.5.02, the Divisional Personnel officer issued an order dated 24.6.02 whereby the applicant was promoted and posted under the Station Manager, Itarsi No.1 in the pay scale of Rs.4000-6000. However, the applicant was given promotion w.e.f. 25.7.97 from the date Mohd. Hasan Khan was given promotion as Shunting Jamadar. Once the applicant's name was included in the select list dated 30.1.95, there was no justification in promoting the applicant w.e.f. 25.7.97. The private respondents were promoted as Shunting Jamadar w.e.f. 30.3.95. Feeling aggrieved by the order of the respondents dated 17.5.02 and 24.6.02, the applicant submitted a detailed representation dated 1.7.02 (Annexure A15) which is not replied so far. Hence this OA is filed.

4. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant is apparently senior to respondents 4 & 5 as is shown in Annexure A5. The applicant had filed OA No.101/95 which was decided by order dated 11.3.02 by which the respondents were directed to consider and decide the representation of the applicant dated 6.2.95 within three months. It was decided by the respondents on 17.5.02. This order is not passed in compliance with the order of the Tribunal. In the aforesaid order dated 17.5.02 (Annexure A1), the name of the applicant was shown below Mohammad Hasan Khan as the seniority of the applicant was not corrected. In spite of repeated representations. Our attention has been drawn towards Annexure A9 dated 2.1.95 in which the name of the applicant is at Sl.No.11 while the name of respondent No.4 is at Sl.No.46. Hence respondent No.4 was junior to the applicant. The respondents have apparently ignored the due right of the applicant for



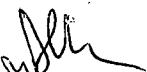
promotion and he is superseded by his junior. Hence the applicant is legally entitled for the reliefs claimed.

5. In reply, learned counsel for the respondents argued that according to the document filed by the applicant (Annexure A10), the applicant is junior to respondents 4 & 5 because the date of appointment of the applicant is 1.6.81 and the dates of appointment of respondents 4 & 5 are 22.1.74 & 1.7.78 respectively. There may be some typing mistake regarding the date of promotion which is not material. Hence the applicant is apparently junior to respondents 4 & 5. The respondents have drawn our attention to Annexure R4 by which respondent No.4 was promoted from 6.11.86 and posted at Bina and the respondents have filed Annexure R5 dated 25.5.04 by which Mahesh Ramdaks is ordered to be reverted. Hence the grievance of the applicant has been redressed by the respondents.

6. After hearing the learned counsel for both parties, we find that according to Annexure A10, the applicant is apparently shown to be junior to respondents 4 & 5, as the date of appointment of the applicant is shown to be 1.6.81 and the dates of respondents 4 & 5 are shown to be 22.1.74 and 1.7.78 respectively. Hence the argument advanced on behalf of the applicant that he is senior to respondents 4 & 5 is not legally tenable and acceptable in view of the document Annexure A10 which is filed by the applicant himself. We have perused Annexure R4. In this document, respondent No.4 is shown promoted w.e.f. 6.11.86 and posted at Bina. We have further perused the document filed by respondents Annexure R5 dated 25.5.04 by which Mahesh ~~Ramdaks~~ is deleted because his name is wrongly mentioned in the list and hence he was ordered to be reverted. The respondents have complied with the directions given in OA No.101/95 by passing Annexure A1 dated 17.5.02 in which they have considered each and every facts and contentions of the applicant.

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

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

aa.

पूछांकन सं. ओ/वडा..... जबलपुर, दि.....

प्रतिलिपि द्वारा दिए

- (1) संघिन, उमा वर रामनाथ, वडा १०, जबलपुर
- (2) अवेदन पर्सनल एसी, वडा १०, जबलपुर के काउंसल
- (3) प्रद्युम्नी श्री/श्रीमती/लड़की, वडा १०, जबलपुर के काउंसल
- (4) अधिकारी, टेलिफोन, जबलपुर वडा १०

N.Tripathi Adv. 2008

J.P.Sinha Adv. 2008

सूचना एवं आवश्यक कार्योंका हेतु

उप रजिस्ट्रार

Issued  
On 17/12/09