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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 468 of 2001

Jabalpur, this the 28th day of April, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri A.S. Sanghvi, Judicial Member

Anil Kumar Tiwari, S/o. Shri Man Mohan
Tiwari, aged about 45 years, working as
Section Engineer (Trip Shed), Central
Railway, New Katni Junction, Katni,
(M.P.).

... Applicant

(By Advocate - Shri Rajesh Maindiretta)

V e r s u s

1. Union of India,
through Secretary, Ministry of
Railway, (Railway Recruitment Board),
New Delhi.

2. General Manager, Central Railway,
Mumbai, CST.

3. Divisional Railway Manager,
Central Railway, Jabalpur.

4. Shri Radheshyam Sharma,
presently posted in the Construction
Unit of Bhopal Division of Central
Railway, Bhopal, (MP).

... Respondents

(By Advocate - Shri M.N. Banerjee for the official
respondents and Shri M.S. Shrivastava on
behalf of Shri M. Sanghi for respondent No.
4)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

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

"a) quash the communications dated 23.7.98,
Annexure A-3, dated 5.2.1999, Annexure A-6, and
dated 26.7.2000, Annexure A-9, passed by the
respondents;

b) the applicant be given seniority over and
above the respondent No. 4, as per clause 302 and 303
(b) of the Indian Railway Establishment Manual;"

2. The brief facts of the case are that the applicant
as well as the respondent No. 4 were initially appointed

by the Railway Recruitment Board and they belong to the same batch. But both of them joined on different dates. The applicant has joined on 24.6.1985 and respondent No. 4 joined on 17.7.1985. Initially the period of training was for two years counted from the date of their joining. In the present case initial period of training was curtailed by the administration and the applicant as well as the respondent No. 4 were posted against the working posts in the exigency of work. But this fact does not give any weightage to the seniority. The applicant had secured 62 marks in the training, whereas the respondent No. 4 has secured 73 marks. On that basis the ^{official} respondents have placed the respondent No. 4 senior to the applicant. Aggrieved by this he has filed this Original Application claiming the aforesaid reliefs.

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

4. The learned counsel for the applicant has drawn our attention towards the Note to para 302 of IREM. The relevant note is extracted below :

"Note - In case the training period of a direct recruit is curtailed in the exigencies of service, the date of joining the working post in case of such a direct recruit shall be the date he would have normally come to a working post after completion of the prescribed period of training."

The learned counsel for the applicant argued that para 303(a) of IREM relied upon by the respondents is not applicable in this case. He has further submitted that since the applicant had joined earlier, as per the note below para 302 of IREM, he will rank senior to the private respondent No. 4.

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5. On the other hand the learned counsel for the

official
Note to
respondents Mr. Banerjee submitted that/Para 302 of IREM
is not applicable in this case as that deals with the
seniority between the direct recruits and promotee.
According to him Para 303 (a) of IREM is relevant and
seniority of the applicant has been fixed in accordance
with this para. Para 303(a) is extracted below :

"(a) 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."

6. We have given careful consideration to the rival contentions made on behalf of the parties and we find that both the applicant as well as the respondent No. 4 have been appointed through Railway Recruitment Board as direct recruits. Both of them belong to the same batch and have been sent for two years training. In the examination held the applicant has secured only 62 marks, whereas the private respondent No. 4 has secured 73 marks. In this case we also find that since both are direct recruits and have undergone the same training, the inter-se seniority of both the applicant as well as the respondent No. 4 has to be decided in accordance with Para 303(a) of IREM and not in accordance with ^{the note to} Para 302 of IREM, which is applicable to fix the seniority between the direct recruits and promotee. In this case the training has been curtailed but the curtailment of the training will have no effect on the seniority of the applicant as well as the private respondent No. 4. We find that the respondents have fixed the seniority in accordance with para 303(a) of IREM which is in accordance with the rules and we do not find any ground to interfere with the action of the respondents in fixing the inter-se

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seniority between the private respondent No. 4 as well as the applicant.

7. Original Application is, therefore, without any merit and is accordingly dismissed. No costs.

(A.S. Sanghvi)
Judicial Member


(M.P. Singh)
Vice Chairman

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पत्ति.

(1) रति.

(2) अवे.

(3) प्रत्ये.

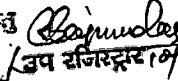
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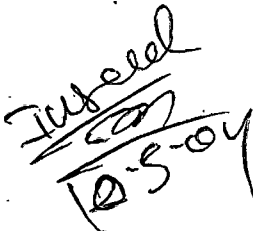
सूचना एवं आदेश.

R. Maindiratta

M. T. Samsir

M. Sanghi


उप रजिस्ट्रार 10/5/04


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