

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 748 of 2001

Jabalpur, this the 29th day of July, 2004

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

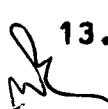
Vishwanjan Singh,
S/o late Ram vilas Singh,
aged about 40 years,
Junior Engineer Grade-I,
R/o D-19, 12 Bungalow,
Railway Colony,
Harde (MP)

(By Advocate - Shri S.Paul)

APPLICANT

1. Union of India,
Through its Secretary,
Ministry of Railway
Rail Bhawan,
New Delhi.
2. General Manager,
Central Railway,
Mumbai C.S.T.
Mumbai.
3. Chief Personnel Officer,
Central Railway,
Mumbai C.S.T.,
Mumbai.
4. Divisional Railway Manager(P)
Central Railway,
Bhopal Division,
Bhopal.
5. Senior Electrical Engineer(TRD)
O/o Divisional Railway Manager,
Bhopal Division,
Bhopal (M.P.)
6. H.V. Gupta, Jr. Engineer Gr.I
C/o Divn. Rly Manager, Bhopal.
7. S.K. Gupta, Jr. Engineer Gr.I
C/o Divn. Rly Manager, Bhopal.
8. V.K. Jain, Jr. Engineer, Gr.I
Divn. Railway Manager, Bhopal
9. G.S. Saxena, Jr. Engineer Gr.I
C/o Divn. Railway Manager, Bhopal.
10. T.N. Gupta, Jr. Engineer Gr.I
C/o Divn. Railway Manager, Bhopal.
11. V.K. Jain, Jr. Engineer Gr.I
C/o Divn. Railway Manager, Bhopal.
12. Vinod Kumar Jain, Jr. Engineer Gr.I
C/o Divn. Railway Manager Bhopal

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13. S.K. Pachouri, Jr. Engineer, Gr.I,
C/o Divn. Railway Manager Bhopal.
14. P.K.S. Kushwaha, Junior Engineer
Grade-I, C/o Divisional Railway
Manager, Bhopal
15. Jai Kumar, Junior Engineer Grade-I,
C/o Divisional Railway Manager,
Bhopal.

RESPONDENTS

(By Advocate - Shri S.P. Sinha for official respondents
Shri L.S. Rajput for private respondents)

O R D E R

By M.P. Singh, Vice Chairman -

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

"(ii) Set aside the order dated 4.4.2000 Annexure A/7 and also seniority list dated 17.7.2000 Annexure A/6;

(iii) Command the respondents to assign seniority to the applicant from September, 1990 in alternatively from 23.2.1991 with all consequential benefits and, accordingly; direct them to place the applicant in the seniority list over and above the private respondents;

(iv) In the result, the applicant be given all consequential benefits including seniority, promotion, etc".

2. The brief facts of the case, as stated by the applicant, are that he was appointed as Chargeman 'B' in Railway Electrification Project, Bhopal with effect from 18.1.1988 on the recommendations of the Railway Recruitment Board. In September, 1990 he was promoted to the post of Chargeman Grade 'A' in the pay scale of Rs.1600-2660. Although the applicant was posted in Bhopal division, his lien was maintained in Traction Rolling Stock, Kalyan, Mumbai Division. At that time, the cadre of Bhopal division was open cadre. By order dated 23.2.1991 certain persons junior to the applicant were promoted at Kalyan wherein his lien was maintained. The cadre of Bhopal Division was closed in January, 1995 and the seniority list prepared on 16.3.1999, wherein the applicant's name find place at serial no.12 over all the private respondents. According to him, all the private-respondents were junior to him. The post of Chargeman 'A' was redesignated as Junior



Engineer Gr.-I and the next promotional post is Section Engineer in the pay scale of Rs.6500-10500. The respondents have issued another seniority list dated 17.7.2000 wherein the position of the applicant has been down-graded to serial no.25, and the private-respondents who were junior to him, are placed over and above him for no valid reasons. Hence he has filed this OA.

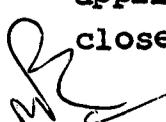
3. The respondents in their reply have stated that the applicant was selected as Chargeman 'B' and was posted in Railway Electrification Project on stipend of Rs.380/-per month. He was regularised in the grade of Rs.1400-2300 w.e.f. 18.1.1988 maintaining his lien on Central Railway in the cadre of TRS, Kalyan in Electrical Department under DRM, Mumbai. While he was working in project, he was promoted on adhoc/local/temporary basis, and as a stop gap arrangement in the grade of Rs.1600-2660 vide order dated 24.9.1990. At that time the applicant was holding the substantive post of Chargeman 'B' in the grade of Rs.1400-2300 in his parent cadre. He was transferred to the office of DRM, Bhopal in open cadre of TRD, Bhopal vide letter dated 6.4.1992. According to the respondents, no seniority is fixed in the open cadre, since the persons in the open cadre are taken from different units and maintain their lien in seniority in their parent cadre. The applicant was posted in TRS Department at Harda in open cadre on adhoc basis in the grade of Rs.1600-2660 vide order dated 25.5.1992 of DRM(P)Bhopal. In the meantime the DRM, Mumbai promoted some staff of their division w.e.f. vide order dated 31.12.1991 23.2.1991 on provisional basis. One Shri G.S. Saxena, challenged the said promotion order dated 31.12.1991, and other orders by which anti-dated promotions had been given to the staff, by filing O.A.No.357/1993, which was decided by this Tribunal on 25.6.1999. In the said order, the Tribunal has directed as under-

"10....We are unable to hold that Annexure A-2, A-3, A-4 and A-5 are legal orders and accordingly the private-respondents cannot claim seniority from the retrospective date mentioned therein. We also set aside Annexure A-7 reverting the applicant to lower grade till such time fresh orders are passed in respect of private respondents and their interse seniority is fixed".

Thus, the order promoting the applicant with effect from 23.2.1991 was from an ante-date and was not considered as a legal order in the light of the order dated 25.6.1999 passed by the Tribunal in the aforesaid OA 357/1993. The DRM, Mumbai re-examined the matter, in compliance with the direction of the Tribunal, and set aside the ante-dated effect. Accordingly, the regular promotions were made effective from the date of fitment/passing orders and hence the seniority ^{of the applicant} in TRS Kalyan Loco shed cadre was revised, as at that time his lien was maintained in TRS Kalyan. The TRS cadre of Bhopal Division was closed w.e.f.31.1.1995 and thereafter the seniority of staff working at TRS cadre of Bhopal division was published on 16.3.1995, in which the seniority of the applicant, fixed in TRS Kalyan cadre of Mumbai Division on the basis of his date of promotion, was taken. According to the respondents, the seniority which was revised later on with reference to letter dated 3.4.2000(Annexure-R-2) on 17.4.2000(Annexure-A-6) cannot be challenged as it has been done in compliance with the direction of the Tribunal in the aforesaid OA 357/93. In view of these facts, the applicant is not entitled for any relief and the OA is liable to be dismissed.

4. Heard the learned counsel for the parties and carefully perused the pleadings.

5. The learned counsel for the applicant has submitted that although the revised seniority list has been issued in pursuance of the direction of the Tribunal in OA 357/93, since the applicant was not a party to OA 357/93, his seniority should not be affected by implementing the order of the Tribunal in OA 357/93. On the other hand, the learned counsel for the respondents submitted that the applicant was working in the Bhopal Division in the grade of Rs.1600-2660/- on adhoc basis, although he was holding his lien in substantive post in the grade of Rs.1400-2300. His seniority has been fixed vide letter dated 17.7.2000 in pursuance of the direction given by the Tribunal in OA 357/93. Since the applicant was working in the open cadre in Bhopal which was closed in January,1995, his seniority has been fixed with

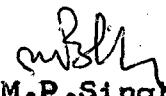


reference to his substantive post against which his lien was maintained.

6. We have given careful consideration to the rival contentions. We find that the applicant was promoted on adhoc basis and was working in the scale of Rs.1600-2660 in Bhopal Division as a stop gap arrangement. He was holding his substantive post in the grade of Rs.1400-2300 and his lien was maintained in TRS Kalyan. The TRS cadre of Bhopal Division was closed w.e.f. 31.1.1995. The revised seniority list dated 17.4.2000 has been issued in compliance of the direction of the Tribunal in the aforesaid OA 357/1993. We find that the seniority of the applicant has been correctly fixed by the respondents while implementing the direction given by the Tribunal in OA 357/1993. Therefore, the contention of the learned counsel for the applicant that since the applicant was not a party to OA 357/93, his seniority should not be affect by implementing the order of the Tribunal in OA 357/93, has no force and is rejected.

7. In the result, the OA is without any merit and is accordingly dismissed, however, without any order as to costs.


(Madan Mohan)
Judicial Member

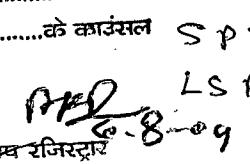

(M.P. Singh)
Vice Chairman.

rkv.

पृष्ठांकन से ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अचो धितः—

(1) सचिव, उच्च न्यायालय भार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु.....के काउंसल S. Paul
(3) प्रत्यार्थी श्री/श्रीमती/कु.....के काउंसल S. P. Sinha
(4) कार्यपाल, लेपारा, जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु


L.S. Rayput
उच्च न्यायालय
6-8-04

Issued
on 6-8-04
by