

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.806/02

Jabalpur, this the 16th day of August, 2004.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.A.K.Bhatnagar, Judicial Member

1. Ashok Kumar Arora
S/o Shri Ram prakash
R/o Flat No.301
Dream Homes II, 47 Govind Garden
Raisen Road, Bhopal.

2. Amar Singh
S/o Shri Kanshi Ram Singh
R/o 260-B, RB-II
Rly.Colony near Microwave
New Yard, Itarsi.

Applicants

(By advocate Shri S.Paul)

Versus

1. Union of India through
its General Manager
Central Railway
Mumbai CST
Mumbai.
2. The Chief Personnel Officer
Central Railway
Mumbai CST
Mumbai,
3. The Divisional Railway Manager(P)
Central Railway
Bhopal Division
Bhopal.
4. Shri Firxoz Liva
Section Engineer
Central Railway Diesel Shed
Kurla, Mumbai.
5. Shri D.P.Sagade
Section Engineer
Central Railway, Diesel Shed
Kurla, Mumbai.

Respondents

(By advocate Shri H.B.Shrivastava)

O R D E R (oral)

By M.P.Singh, Vice Chairman

By filing this OA, the applicant has claimed the following
reliefs:

- (i) Direct the respondents to consider the case of
the applicant for the post of Section Engineer
by taking into account the seniority of Junior
Engineer Grade-II in lieu of Junior Engineer
Gr.I.
- (ii) By making the foundation of seniority of Junior
Engineer Grade II, a review consideration/DPC

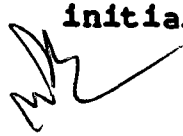
MB

be made for the post of Section Engineer qua the applicants and private respondents.

(iii) Direct the respondents to consider the applicants on that basis with all consequential benefits arising therefrom.

(iv) Direct the respondents to provide seniority to the applicants as Junior Engineer Grade.I from the date of adhoc appointment from 14.5.92 and that seniority be made Basis for promotion on the post of Section Engineer with all consequential benefits.

2. The brief facts of the case are that the applicants were appointed as Junior Engineer Grade II under the respondent Railways, Bhopal Division. They were promoted to the next higher grade of Junior Engineer Grade I in the pay scale of Rs.1600-2660 (pre-revised). They were due for promotion to the post of Section Engineer which is a promotion on zonal basis. Applicants are challenging the seniority/eligibility list prepared by the respondents for considering them to the post of Section Engineer on zonal basis. The admitted facts are that both the applicants as well as their counterparts in Mumbai Division were appointed on the basis of selection made by the Railway Recruitment Board (RRB). However, the seniority in the grade of Junior Engineer Gr.I & II is on the basis of zonal basis, the private respondents appointed as Junior Engineer in Mumbai Division were appointed earlier to the grade of Junior Engineer Gr.I i.e. from 13.5.93 & 25.9.94³ respectively, whereas in the case of the applicants, they were appointed to the grade of Junior Engineer Grade I on adhoc basis w.e.f. 14.5.92 and they were regularly appointed w.e.f. 8.1.96. The contention of the learned counsel of the applicants is that there were regular vacancies available and the applicants were appointed as per rules. Therefore, the service rendered by them in the grade of J.E.Gr.I on adhoc basis should be treated as regular and they should be given seniority from the date of their initial appointment on adhoc basis.



3. On the other hand, learned counsel for the respondents states that the vacancies against which the applicants were appointed as Junior Engineer Gr.I were not regular vacancies as they were released by the persons holding the post of Junior Engineer Gr.I before their promotion to the post of Section Engineer only as a stop gap arrangement for a short period. Therefore, the vacancies released by those persons who were appointed as Section Engineers were also also for a short period on adhoc basis as a stop gap arrangement. Therefore the vacancies could not be termed as regular vacancies.


Moreover, appointment to the post of Junior Engineer Gr.I is made ^{by following a prescribed procedure.} ~~through selection~~. According to the learned counsel for respondents, the procedure followed for regular appointment through IPC on the basis of records was not followed and the applicants were appointed only on the basis of seniority on adhoc basis without following the procedure prescribed for regular appointment.

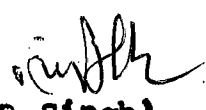
4. We have given careful consideration. We find that both the applicants as well as private respondents had been appointed as Junior Engineers Gr.II in Bhopal & Mumbai Divisions respectively on the basis of selection made by RRB. It is not in dispute that seniority of Junior Engineer Grades I & II is regulated on the basis of Division. The next higher promotion to the post of Section Engineer is made on the basis of zone and, therefore, the eligibility list/seniority list of JE I of all Divisions is prepared on zonal basis/zonal seniority. Since the private respondents have been regularly appointed to the post of Junior Engineer Gr.I on 13.5.93 and 25.9.94 respectively i.e. before the regular appointment of applicants 1 & 2 who were appointed on 8.1.96, the

MB

private respondents are senior to the applicants in the Grade of Junior Engineer Gr.I. The contention of the applicants that the applicants were appointed against regular vacancies as per rules cannot be accepted as the vacancies released by the incumbents on the basis of their promotion to the post of Section Engineer were only for a short period and the procedure followed for promoting the applicants on adhoc basis was also not followed for regular appointment through IPC on the basis of records. Therefore, their appointment from 12.4.90 on adhoc basis cannot be termed as regular promotion and since they have been appointed on regular basis to the post of Junior Engineer Gr.I but from a later date, they are junior to the private respondents.

5. In view of the foregoing discussion, the OA is without merit and is liable to be dismissed. For the reasons recorded above, the OA is dismissed.


(A.K. Bhatnagar)
Judicial Member


(M.P. Singh)
Vice Chairman

aa.