

Original Application No.498 of 1998

Jabalpur, this the 20th day of May, 2003.

Hon'ble Mr. R.K. Upadhyaya - Administrative Member
Hon'ble Mr. J.K. Kaushik - Judicial Member

1. Shri Anoop Singh Yadava, S/o Shri Udayaveersingh Yadava, Aged 30 years, Occupation: Depo Store Keeper, Grade-III, Divisional Stores Depo, Western Railway, Ratlam. Resident of LIG-16, Behind E.S.I. Hospital, Indira Nagar, Ratlam.
 2. Shri Ramesh Chandra Mahaur, S/o Shri Manpalsingh Mahaur, Aged 30 years, Occupation: Depo Store Keeper, Grade III, Divisional Stores, Depo, Western Railway, Ratlam. Resident of 179, Gandhi Nagar, Ratlam (M.P.)
- Applicants
- (By Advocate S/Shri R.K. Gupta & S.K. Nagpal)

Versus

Union of India through :

1. The General Manager, Western Railway, Churchgate, Mumbai-20.
2. The Distt. Controller of Stores, Western Railway, Maha Laxmi, Mumbai.
3. The Deputy Controller of Stores, Western Railway, KOTA (Raj).
4. The Distt. Controller of Stores, Western Railway, Dohad (Gujrat).
5. The Divisional Railway Manager, Western Railway, Ratlam (MP)

- Respondents

(By Advocate - Shri M.N. Banerji)

O R D E R

By J.K. Kaushik, Judicial Member -

Shri Anoop Singh Yadava and Shri Ramesh Chandra Mahaur have basically filed this O.A. for seeking a direction to the respondents for preparing the seniority list of all the employees of Ratlam Stores merging their seniority along with Kota District Stores non-gazetted staff and to consider their cases for further promotion and other benefits as per their position in the seniority list to be prepared.

2. Skipping the variances, the material facts leading to filing of this OA are that the applicant no.1 was initially appointed to the post of Depot Store Keeper Grade-III and posted at Dohad on 6.9.1991. The

applicant no.2 was also appointed after passing the selection on the post of Depot Store Keeper Grade-III on 3.3.1992 and was posted at Bombay in Bombay Division.

3. An order dated 10.7.1996 (Annexure-A-4) was passed wherein guidelines have been issued regarding the merger of Class-III and Class-IV employees of Division COS,Ratlam with Kota Store District. As per the guidelines an option was required to be submitted for post under Divisional COS,Ratlam and seniority of willing staff will be merged with Kota Store District. The applicants vide applications dated 3.8.1996 (Annexures A-6 & A-7) submitted their options for assignment of seniority in Kota Store District. The same was acceptable to the competent authority as per order dated 14.10.1996 (Annexure-A-9). However, seniority list has been issued vide letter dated 31.12.1999 (Annexure-A-20) in respect of Class-III Staff of Kota Store District, but the name of the applicants does not find place in the same. Further, as per the said seniority list the selection was organised for the next higher post vide Annexure-A-1 and none of the applicants was allowed to undertake the selection for the obvious reasons that their names did not find place in the seniority lists Annexures-A-20 & A-21 for which the selection was organised by the Kota Store District. Representations were made in the matter, but the same did not cause any sensation to the respondents and no final decision has yet been taken in the matter.

4. A detailed counter reply has been filed on behalf of the respondents and it has been submitted that the applicant no.1 was allowed on request transfer on acceptance of bottom seniority from Dahod to Ratlam. Similarly, applicant no.2 was also allowed on request transfer and in this way they cannot carry their own seniority. It is also averred in the reply that the matter regarding assignment of the seniority to the applicant is under consideration with the department.

5. A rejoinder has been filed in the matter controverting the averments made in the reply.

6. We have heard the learned counsel of parties and have carefully perused the records of this case.

7. The learned counsel for the applicants has submitted that the additional documents which are sought to be relied upon by the respondents indicating that the applicants were allowed on request transfer were never served to the applicants and the applicants, in fact, have no knowledge about the same. He has submitted that the applicants were asked to submit their options and there is no clause for losing the seniority in respect of Class-III. They were in fact required to get their own seniority and the applicants have specifically indicated this position in their very option which was accepted by the respondents. In this view of the matter, there is no reason why the applicants should not get their own seniority in accordance with the rules in force relating to the transfer in the administrative interest. He has also submitted that the complete action in the matter was taken at the instance of the respondents and in that view of the matter also the applicants are entitled to get their due seniority.

8. On the contrary the learned counsel of the respondents has submitted that the matter of assignment of seniority is under consideration. It has also been submitted that applicant no.1 was asked to appear in the examination for the next higher post and at one time he was also given the promotion but he refused in Dahod. However, he has submitted that the matter remains under constant consideration and the moment the same is finalised, the applicants would be assigned their seniority in Kota Store district.

9. We have considered the rival contentions raised on behalf of the rival parties. From the arguments we find that Annexures which relate to the calling of the options, the very options submitted by the applicants and their acceptance by the competent authority for maintaining their

seniority in Kota Store District has not been disputed. There has also not been any seriousness as regards to the letters relating to the own request transfer inasmuch as the respondents have not produced any applications by which the applicants have requested for their transfer on own request. In such a situation, the contention of the learned counsel of the respondents stand repelled and the contention of the learned counsel of the applicants is well founded. While there can be no doubt that the applicants are required to be assigned seniority in Kota Store District and there is also no serious doubt as regards that they submitted their options without any condition such as bottom seniority, they are entitled to grant of seniority by treating their transfer in the interest of administration.

10. We are constrained to observe that the applicants were allowed to opt for Kota Store District in the year 1996 and by now 7 years have passed. They have not been assigned any seniority not even bottom seniority and the matter is said to be under consideration. The lethargic and protracted inactiveness on the part of the respondents undermines the very working of the respondents. Besides, it is a constant demoralising effect on the employees like the applicants. In the present OA, the individuals are kept under the sword of democrat, their future is made uncertain, their number of juniors have been allowed to march over them, in such a situation can the respondents get rid of by making averment that the matter is under consideration. We view the matter with great concern and hope and trust that the respondents will keep their house clean and inspire confidence in their working.

11. In view of the aforesaid discussion, the OA has much force and the same deserves to be allowed. The respondents are directed to assign the due seniority to the applicants in Kota Store District as per their original seniority and as per their options. They shall also be entitled to all consequential benefits including consideration for promotion etc. from the date their next junior has been considered. In case no vacancy is available to accommodate them, supernumerary posts may be created for them.

The respondents are also saddled with cost of Rs.2000/- (Rs. Two

thousand only) which may be recovered from the official responsible in the matter. This order shall be complied with within a period of four months from the date of receipt of a copy of this order.

J.K. Kaushik
(J.K. Kaushik)
Judicial Member

R.K. Upadhyaya
(R.K. Upadhyaya)
Administrative Member.

rkv.

पृष्ठान्त सं ओ/का.....जबलपुर, दि.....

प्रतिनिधि समिति :-

- (1) अध्यक्ष, उच्च न्यायालय, जबलपुर
- (2) न्यायाधीश, जबलपुरके काउंसल Dr. R.K. Gupta, Adm.
- (3) न्यायाधीश, जबलपुरके काउंसल M.M. Banerjee, Adm.
- (4) न्यायाधीश, जबलपुरके काउंसल

सूचना एवं आदेशों का निरीक्षण हेतु

J.K. Kaushik
प्रतिनिधि
22/5/13

Issued
on 23.5.13
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