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**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

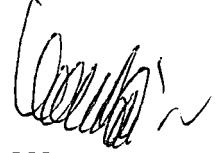
APPLICATION NO.: _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL
	<p><u>06.03.2009</u></p> <p><u>OA No. 187/2005</u></p> <p>Mr. C.B. Sharma, Counsel for applicant. Mr. Anupam Agarwal, Counsel for respondents.</p> <p>Heard learned counsel for the parties.</p> <p>For the reasons dictated separately, the OA is disposed of.</p> <p> (B.L. KHATRI) MEMBER (A)</p> <p> (M.L. CHAUHAN) MEMBER (J)</p> <p>AHQ</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 06th day of March, 2009

ORIGINAL APPLICATION NO. 187/2005

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Ishwar Lal Sharma son of Late Shri Radhey Shyam Sharma aged about 48 years, resident of Ward No. 5, Chuli Gate Parvati sadan behind Chawanda Devi Gangapur City and presently working as Movement Inspector, West Central Railway, Gangapur City.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through the General Manager, West Central Zone, West Central Railway, Jabalpur.
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota.
3. Senior Divisional Transportation Manager, West Central Railway, Kota Division, Kota.

.....RESPONDENTS

(By Advocate: Mr. Anupam Agarwal)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

"(i) That the entire record relating to the case be called for and after perusing the same respondents may be directed to promote the applicant in the scale of Rs. 7450-11500 as per his seniority in Movement Inspector by declaring merger of Movement Inspector with the other cadres is against the Scheme with all consequential benefits.

(ii) That the respondents be further directed to interpolate the name of the applicant in the seniority list dated 29.12.2004 (Annexure A/8) at serial no. 23 as shown in seniority list dated 29.09.2004 (Annexure A/7) by

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deleting name from serial no. 61 to the scale Rs.6500-10500 with all consequential benefits.

- (iii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the cost of this application may be awarded."

2. When the matter was listed on 12.11.2008, learned counsel for the applicant submitted that he is confining this OA to the extent that applicant being senior in the cadre of Movement Inspector is entitled to his promotion to the grade of Rs.7450-11500/- and for that purpose, merged seniority of Station Master/Assistant Station Master/Traffic Inspector and Yard Master cannot be taken into account as the cadre of Movement Inspector has not been merged with these categories. It was further noticed that order/document annexed with the Additional document shall be taken on record. It may be stated here that alongwith the Additional Affidavit, the applicant has annexed documents, which he has received under the Right to Information Act, 2005 in which it has been stated that according to restructuring cadre, Movement Inspector has not been merged with Station Master/ Assistant Station Master, Traffic Inspector and Yard Master.

3. The respondents have filed reply to the Additional Affidavit filed by the applicant. Alongwith the reply, the respondents have annexed letter dated 03.09.2004 whereby they have enclosed the decision taken in the joint meeting with the Union where it was decided to include the cadre of Movement Inspector into one unified cadre of Station Master/ Assistant Station Master.

4. We have heard the learned counsel for the parties. In terms of the Railway Board instructions dated 09.10.2003 as contained in RBE No. 171/2003 vide Para No. 10.1, Railway Board has decided that the cadre of Station Master/Assistant Station Master, Traffic Inspector and Yard Master has been merged into unified cadre of Station Master/Assistant Station Master. This Para does not indicate that the cadre of Movement Inspector to which applicant belongs has also

been merged into unified cadre of Station Master/ Assistant Station Master. Thus in view of this, we are of the view that it was not permissible for the respondents to act on the basis of the decision taken with the Union to merge new category i.e. category of Movement Inspector into Station Master/ Assistant Station Master which category has not been included by the Railway Board. Since the action of the respondents may amounts to overreaching ~~with~~ the decision taken by the Railway Board vide RBE 171/2003, we left this question open to be decided by the Railway Board. Accordingly, the present OA is disposed of at this stage without going into merit of the case and the Railway Board is directed to look into the matter in the light of the observation made hereinabove and take appropriate decision within a period of three months from the date of receipt of a copy of this order as to whether it was permissible for the authorities of West Central Zone to treat the cadre of Movement Inspector having merged into cadre of Station Master/ Assistant Station master in the absence of any such decision taken by the Railway Board and thus granting promotion on the basis of combined seniority list.

5. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ