

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

Original Application No.272/2005 with MA No.105/2006.

Jaipur, this the 29th day of August, 2006.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.
Hon'ble Mr. J. P. shukla, Administrative Member.

V. K. Naidu
S/o Late Shri E.B.R.Naidu,
Aged around 57 years,
R/o 116/132, Agarwal farm, Mansarovar,
Jaipur.

... Applicant.
By Advocate : Shri C. B. Sharma.

Vs.

1. Central Ground Water Board through Chairman, Central Head Quarter Offices, CGO Complex, NH-IV, Faridabad.
2. Regional Director, Central Ground Water Board (HR), Jhalana Industrial Area, Jaiur.
3. Shri Nand Lal II, Driver Special grade, O/o Regional Director, Central Ground Water Board (WR) Jhalana Industrial Area, Jaipur.
4. Shri Neelkanth Day, Driver Special Grade, O/o Regional Director, Central Ground Water Board (ER), Bidhannagar, Kolkata.

... Respondents.

By Advocate : Shri Pradeep Shrimal for Respondent No.1&2.
None is present for other respondents.

b
: O R D E R (ORAL) :

The grievance of the applicant in this OA is regarding seniority of Driver (Special Grade as on 1.1.2005) as circulated vide letter dated 11.01.2005 (Annexure A/1) and also the letter dated 12.02.2004 (Annexure A/2) whereby the official respondents denied the seniority to the applicant in the aforesaid cadre over and above Shri Nand Lal, Respondent No.3 and Shri Neelkanth Day, Respondent No.4 and has prayed that these orders may be quashed and the name of the applicant may be interpolated in the seniority list of Driver Grade-I dated 11.01.2005 over and above Respondent No.3 & 4. The applicant has further prayed that he may be granted promotion on the post of Driver (Special Grade) from the date Respondent No.3 has been promoted i.e. 9.6.2003, with all consequential benefits. For claiming the aforesaid relief, the applicant has averred that the applicant is senior to Respondent No.3 & 4 from the date of initial entry in the basic cadre and in this regard Respondent No.2 has also recommended the applicant's case vide letter dated 30.01.2005. Thus, according to the Learned Counsel for the applicant, the action of the respondents in denying the benefit to the applicant is totally arbitrary and illegal and it is on these basis the applicant has filed this OA thereby praying for quashing the impugned orders Annexure A/1 and A/2 and grant him the benefit of promotion on the post of Driver (Special Grade) w.e.f. 9.6.2003 with all consequential benefits.

2. Notice of this application was given to the respondents. Respondents have filed reply.

3. The official respondents have resisted the claim of the applicant by filing detailed reply. However, after filing of the reply, the respondents have also filed MA which was registered as MA No.105/2006. In this MA it has been stated that the case of the applicant for granting seniority over and above Respondent No.3 & 4 has been considered from 10.10.2003. A copy of the fresh seniority list as issued vide letter No.1-08/2005(M) Lit. Cell 7781 dated 03.02.2006 has been annexed with the MA as Annexure R/2. Thus, according to the respondents the present OA has become infructuous. Annexure R/2 ~~is~~ taken on record.

4. We have heard the Learned Counsel for the parties and gone through the material placed on record.

5. Learned Counsel for the applicant argued that though vide revised seniority list of Driver (Special Grade) issued on 1.0.12006 annexed with the MA, the name of the applicant has been shown at Sl. No.18 whereas name of Respondent No.3&4 has been shown below applicant at Sl. No.19 & 20 respectively, but against the column "the date of appointment" in the present grade" qua applicant has been mentioned as 10.10.2003 whereas the date of appointment of Respondent No.3 in the present grade has

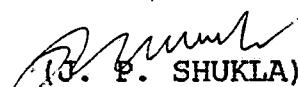
been shown as 12.06.2003. Thus, according to applicant in view of assigning higher seniority in the seniority list than Respondent NO.3 & 4, it was incumbent upon the respondents also to grant promotion to the applicant w.e.f. 12.06.2003, the date when Respondent No.3 was granted promotion in the grade of Rs.5000-150-8000/-.

6. We have given due consideration to the submission made by the Learned Counsel for the applicant and we are of the view that the applicant has made out a case for grant of relief. From the perusal of the revised seniority list, it is evident that the Seniority List has been prepared on the basis of date of appointment in the grade. The respondents have themselves granted higher seniority to the applicant over and above Respondent No.3 & 4. It was incumbent upon them also to change the date of appointment of the applicant in the present grade by rectifying the same as 12.06.2003 and to grant him at least notional benefit in the aforesaid grade w.e.f. 12.6.2003. Accordingly, the present OA is partly allowed. Respondents are directed to substitute the date 10.10.2003 ^{to} that of 12.06.2003 in the revised seniority list of Driver (Special Grade) as on 1.1.2006 under the Heading "date of appointment in the present grade" and also issue formal order thereby promoting the applicant in the aforesaid grade w.e.f. 12.6.2003, the date on which junior to the applicant, namely Respondent No.3, was promoted. It is, however, clarified that the applicant

shall not be entitled for back wages on account of antedating of his appointment in the grade of Rs.5000-150-8000 w.e.f. 12.6.2003 and such promotion will be on notional basis and will count for all other purposes except for the purpose of arrear of salary.

7. With these observations, the OA is disposed of.

8. In view of the order passed in OA, no order is required to be passed in MA, which shall stands disposed of accordingly.



(J. P. SHUKLA)
ADMINISTRATIVE MEMBER



(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./