

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 19th day of August, 2008

ORIGINAL APPLICATION NO.303/2005

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.B.L.KHATRI, ADMINISTRATIVE MEMBER

Raghuveer Singh
S/o Shri Chuttan Lal,
R/o 442/18, Ashok Nagar Bhatta,
Behind Shanti Market,
Ajmer.

... Applicant

(By Advocate : Shri Subhash Bisawa)

Versus

1. Union of India through
General Manager,
North Western Railway,
Near Railway Hospital,
Jaipur.
2. Chief Works Manager,
North Western Railway,
Loco Head Office,
Ajmer.
3. Dy.CME (C),
Carriage & Wagon Workshop,
North Western Railway,
Ajmer.
4. Shri laxman Singh Meena,
Section Engineer,
26 Deptt, C&W Workshop,
C/o Dy.CME (C),
Carriage & Wagon Workshop,
North Western Railway,
Ajmer.

)... Respondents

(By Advocate : Shri Hawa Singh, proxy counsel for
Shri V.S.Gurjar)

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ORDER (ORAL)PER HON'BLE MR.M.L.CHAUHAN

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

"The Hon'ble Tribunal may kindly be pleased to accept and allow this OA and declare order dated 23.6.2005 reverting the applicant as illegal and may kindly be quashed and set aside."

2. The applicant was promoted to the post of Senior Section Engineer in the deficiency of reserved vacancy of SC on 31.5.2003. Grievance of the applicant is that vide order dated 4.6.2005 (Ann.A/8) a show-cause notice was issued to him, whereby it was stated that pursuant to the Railway Board's letter dated 21.8.97, whereby a post based roster was issued, the vacancy against which the applicant was promoted was meant for ST category and not for SC category. The applicant filed reply to that show-cause notice. However, vide impugned order dated 23.6.2005 (Ann.A/1) the applicant has been reverted from the post of Senior Section Engineer to the post of Section Engineer. It is this order which is under challenge before this Tribunal.


3. Notice of this application was given to the respondents. The respondents have filed their reply. In the reply the respondents have stated that no doubt the applicant was promoted to the post of Senior Section Engineer in the pay scale of Rs.7450-11500 treating the vacancy reserved for SC category but his promotion was/is erroneous in view of operative L-Type roster wherein Shri Banveer Singh (SC) and Shri Narayan Lal (SC) have already been accorded promotion showing deficiency of SC category, whereas in fact there is excess in the category of SC. For that purpose, the respondents have also placed on record certain documents at Ann.R/4 & R/5.

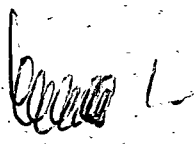
4. We have heard learned counsel for the parties. We are of the view that the impugned order dated

23.6.2005 (Ann.A/1) can be quashed solely on the ground that the applicant was reverted from the post of Senior Section Engineer to that of Section Engineer on the basis of post based roster prevailed by the Railway Board vide order dated 21.8.97 (Ann.A/9). The validity of said roster was challenged before this Tribunal in various OAs and this Tribunal has quashed the said post based roster prepared by the Railway Board with a direction to the respondents that they should follow the post based roster as maintained by the DOPT. It may be stated that in one of such cases, decided by the Jodhpur Bench of the Tribunal, the matter was carried to the Hon'ble High Court and the Hon'ble High Court vide its judgement in the case of **Union of India through General Manager, Northern Railway, Baroda House, New Delhi, & Ors. v. Rajendra Kumar Gaur & Ors.** [2003 (1) SLR 533] has upheld the judgement rendered by the Jodhpur Bench of the Tribunal. Thus, in view of the law laid down by this Tribunal as well as High Court in the case of Rajendra Kumar Gaur (supra) it was not permissible for the respondents to pass the impugned order on the basis of post based roster dated 21.8.97 which already stood quashed with a direction to the respondents to follow the post based roster as prepared by the DOPT.

5. Accordingly, the OA is allowed and the impugned order dated 23.6.2005 (Ann.A/1) is quashed and set aside. The respondents are directed to reconsider the matter on the basis of post based roster, as maintained by the DOPT, and such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

6. With these observations, the OA stands disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)