

**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


04.11.2009

OA No. 308/2005

Mr. P.V. Calla, Counsel for applicant.
Mr. Murari Lal Gupta, Proxy counsel for
Mr. N.C. Goyal, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is
disposed of.


(B.L. KHATRI)
MEMBER(A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

Jaipur, this the 04th day of November, 2009

ORIGINAL APPLICATION NO. 308/2005

CORAM:

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

Baldev Singh son of Shri Baghel Singh, aged about 55 years, at present workin on the post of TTI, scale Rs.5500-9000/-, office of DCTI, NWR, Jaipur division, resident of Plot No. 217, officers campus Main, Vishnu Marg, Sirsi Road, Jaipur.

.....APPLICANT

(By Advocate: Mr. P.V. Calla)

VERSUS

- 1. Union of India through General Manager, North Western Railway, Opposite Railway Hospital, Jaipur.**
- 2. The Divisional Railway Manager, Jaipur Division of NWR, Jaipur.**

.....RESPONDENTS

(By Advocate : Mr. Murarilal Gupta proxy to Mr. N.C. Goyal)

ORDER (ORAL)

The grievance of the applicant in this case is regarding the order dated 03.06.2005 (Annexure A/1) whereby an opportunity was given to the applicant to file a representation within 15 days as to why the seniority list dated 8/14.09.2004 whereby his name was shown at sl. No 15 in the cadre of TTI in the grade of Rs.5500-9000/- be not recalled.

- 2. When the matter was listed on 06.07.2005, this Tribunal while issuing the notice also directed to the applicant to file a detailed representation to the competent authority against the impugned show cause notice/order dated 03.06.2005 and respondent no. 1 was also**

directed to decide the representation of the applicant. It was further made clear that till the representation of the applicant is not decided, no prejudicial order against the applicant shall be passed.

3. The respondents have filed their reply. In the reply, it is stated that the representation of the applicant has been decided vide order dated 21.10.2005 (Annexure R/4) in the light of the observations made by this Tribunal. It will be useful to quote the decision of the appropriate authority, which thus reads as under:-

"In compliance of Hon'ble CATs ad interim directions dated 6.7.05 and 6.10.05 passed in OA No. 308/2005, I have gone through the representation of the applicant, Shri Baldev Singh, TTI dated 19.07.05. The main plea of the applicant mentioned in the representation is that the seniority lists and contents of the HQ letter dt. 6.10.97 were not published to the employees. In this regard, I have gone through the official record i.e. seniority lists of the applicant which were published vide this office letter No. EC/1030/8 Vol. VI/X dated 16.7.87, 16.7.92, 16.8.97 etc. and found that opportunity for representing against the assigned seniority position was given to each and every employee of the seniority group including Shri Baldev Singh. Shri Baldev Singh never represented against his seniority, which were assigned to him prior to 2001. Now as per instructions of HQ office dated 6.10.97 the old cases of seniority i.e. prior to 1.3.93 are not to be reopened. Therefore, I find that it is not appropriate to revise seniority of Shri Baldev Singh which was in existence prior to 2001 hence the pray mentioned in the representation by Shri Baldev Singh is rejected."

4. The applicant has filed an additional affidavit dated 13.08.2009 whereby in Para Nos. 8 & 9 of this Affidavit, the applicant has quoted the instance of one Shri Daljendra Singh, who was appointed on 27.02.1987 in the pay scale of Rs.1200-2040, his seniority position was corrected on his representation vide notification dated 16.09.2003. Not only that, promotion was also granted to Shri Daljendra Singh pursuant to assigning of the higher seniority.

5. In view of the material placed by the applicant by way of additional affidavit, we are of the view that it is a case which is required to be considered by the General Manager at his own level in as much as that in the case of the applicant the respondents have relied upon the headquarter office instructions dated 06.10.1997 which stipulates that old case of seniority prior to 1.3.93 should not be re-opened whereas in the case of Shri Daljendra Singh, the appropriate authority has ignored the aforesaid instructions and seniority position of Shri Daljendra Singh as existing on 01.03.1993 was not only changed but he was given promotion in higher grade. Thus, we are of the view that it is not permissible for the Railway authorities to take different stand in respect of employees who are similarly situated. Be that as it may, since we are remitting the case to the General Manager for taking appropriate action in the matter in accordance with law, we are not expressing any further opinion on this aspect. Accordingly, respondent no. 1 is directed to re-consider the matter in the light of the observation made above within a period of two months from the date of receipt of a copy of this order. In case no prejudicial order^{decision} in¹⁹ terms of order dated 06.07.2005 has ~~not~~ been taken by the respondents after the decision of representation on 21.10.2005, such decision shall be deferred till the passing of fresh order in terms of observations made above.

6. 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