

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

---  
ORDER SHEET


ORDERS OF THE TRIBUNAL

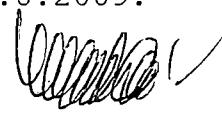
7.7.2009

OA 335/2005

Mr. Sunil Samdaria, counsel for applicant.  
None present for respondents.

At the request of learned counsel for the applicant, let the matter be listed on 7.8.2009.

  
(B.L. KHATRI)  
MEMBER (A)

  
(M.L. CHAUHAN)  
MEMBER (J)


vk

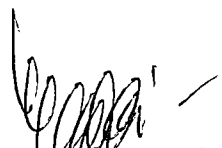
7.8.2009

Mr. Sunil Samadaria - Counsel for applicant  
Ms. Nudrat Jamil Proxy counsel for  
Mr. S.S. Hasan - Counsel for respondents

Heard the learned counsel for the parties.

For the reasons dictated separately  
the OA stands disposed of

  
(B.L. Khatri)  
Member (A)

  
(M.L. Chauhan)  
Member (J)

Ry

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 7<sup>th</sup> day of August, 2009

**OA No.335/2005**

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)  
HON'BLE MR. B.L.KHATRI, MEMBER (ADMV.)

Suresh Chand Goyal s/o Shri R.D.Goyal, aged 42 years r/o 9/178,  
Shivpuri, Hathi Bhata, Ajmer presently working as Station Master,  
Ladpura.

.. Applicant

(By Advocate: Shri Sunil Samadaria)

Versus

1. Union of India through Its General Manager, Western Railway, North Western Railways, Jaipur
2. Divisional Railway Manager (Estt.), North Western Railway, Jaipur
3. Nagar Mal Saini s/o KR Saini, Station Master, Neem Ka Thana, NW Railway.
4. Yadvendra Singh s/o Shri Nirmal Singh, TI-Bandikui, NW Railway.
5. Manoj Kumar Pareek s/o Shri Bhagwan Pareek, Station Master, Kanakpura, NW Railway.
6. Tara Chand Kumhar s/o Shri Rameshwar Kumhar, Station Mater, Shri Madhopur, NW Railway.
7. Dayanand Chaturvedi s/o Shri S.P.Chaturvedi, Kayamsar, NW Railway.
8. Suabdh Prasad Mittal s/o Shri Hanuman Mittal, Station Master, Tiloniya, NW Railway.
9. Banwari Lal Bhargava s/o Shri Madan Lal, MVI Control Office, Jaipur, NW Railway.
10. Dharmendra Kumar Gupta s/o Shri Jitendra Gupta, Station Master, Bais Godam, Jaipur, NW Railway.



11. Jhawar Mal Saini s/o Shri Laxmi Narayan Saini, Station Master, Jerdi Dadiya, NW Railway.
12. Raj Kumar Malhotra s/o Shri Fakir Chand, Station Master, Alwar NW Railway
13. Anurag Saksena s/o Shri Anand Swaroop Saksena, Station Hirhoda, NW Railway.
14. Ashok Kumar Sharma s/o Damodar Sharma, Station Master, Basua, NW Railway.
15. Ram Swaroop Mal s/o Chittar Singh, Station Master, Kairthal, NW Railway.
16. Ashok Kumar Verma s/o Shri Kishan Lal Station Master Ladpura, NW Railway.
17. Kailash Chand Yadav s/o Shri Ramesh Chand, Station Master, Khorl, NW Railway.
18. Anwar Hussain s/o Shri Mosiq, Station Master, Jhunjhunu, NW Railway.

.. Respondents

(By Advocate: Ms. Nudrat Jamil proxy counsel for Ms. S.S.Hasan)

### **ORDER (ORAL)**

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

- i) quash and set aside the seniority list dated 4.7.2004 wherein applicant have been placed below the private respondents.
- ii) Issue appropriate order/direction to official respondents to place applicant above the private respondents taking the date of inductment as 22.10.2001 and grant all consequential monetary relief thereof i.e. fixation of pay and arrears of salary in accordance with pay scale of Rs. 5500-9000.
- iii) Any other order which this court deem fit & proper in facts and circumstances of the case may also be passed in favor of applicant."

2. Briefly stated, facts of the case are that the applicant while working as Assistant Station Master appeared in the Limited Departmental Competitive Examination (LDCE) against the post of

*for*

Station Master in the pay scale Rs. 5500-9000 and accordingly he was placed in the panel issued on 22.10.2001. Thereafter the applicant was sent for training and promotion order was issued on 22.7.2002 after completion of training. The grievance of the applicant in this case is that in his case 22.7.2002 has been taken as the date for the purpose of seniority, although he was empanelled on 22.10.2001 whereas private respondent Nos. 3 to 18 who were also working in the pay scale of Rs. 5000-8000 and were promoted to the post of Station Master in the scale of Rs. 5500-9000, in their case seniority has been determined w.e.f. 7.11.2001 when they were promoted in the higher scale, although they were <sup>not</sup> subjected to training. According to the learned counsel for the applicant once the applicant has been placed in the panel, his training <sup>has</sup> nothing to do with determination of seniority. It is on this basis, the applicant has stated that the applicant may be placed above the private respondents in the seniority list by taking date of his appointment as 22.10.2001 instead of 22.7.2002.

3. Notice of this application was given to the respondents. The respondents in the reply have stated that the Railway has issued a notification on 13.6.2000 for holding departmental examination to fill up 10% quota of LDCE from Traffic Apprentices in the pay scale of Rs. 5500-9000 and the present applicant has also appeared in the said test and examination which was held on 19.9.2001, 20.9.2001 & 24.9.2001 and he had cleared the said selection. It is further stated that thereafter the panel of selection was issued on 22.10.2001. The

bel

applicant was sent for training and after completion of training, promotion orders were issued on 22.7.2002. It is further stated that the seniority list of Station Masters, scale Rs. 5500-9000 was issued vide letter dated 4.7.2004 and this seniority list has been issued from the date of promotion of such incumbent. Since promotion order of the applicant was issued vide order dated 22.7.2002, as such he has been given seniority w.e.f. the date of his promotion i.e. 22.7.2002. It is further stated that private respondent Nos. 3 to 18 have been promoted from the post of Assistant Station Master scale Rs. 5000-8000 to the post of Station Superintendent scale Rs. 5500-9000 on 7.11.2001. Therefore, their seniority has been reckoned from the date of promotion i.e. 7.11.2001. It is further stated, that the persons who were promoted from the post of Assistant Station Master to the post of Station Master were not required to undergo training before their promotion, therefore, in the seniority list they have been rightly shown from 7.11.2001.

4. We have heard the learned counsel for the parties and gone through the material placed on record.

5. The sole question which requires our consideration is whether the applicant is entitled to seniority w.e.f. 22.10.2001 when his name was empanelled and thereafter sent for training or w.e.f. 22.7.2002 when the applicant was promoted in the grade of Rs. 5500-9000 after completion of training. The matter on this point is no longer res-integra and the same is squarely covered by the decision

10

rendered by the Apex Court in the case of Swapan Kumar Pal and Ors. Vs. Samitabhar Chakraborty and Ors., 2001 SCC (L&S) 880 whereby the Apex Court after considering the provisions <sup>at</sup> Para 302 of the Indian Railway Establishment Manual (IREM) alongwith the note appended thereto has held that seniority has to be fixed from the date of promotion after regular selection by due process. It was further held that period of ad hoc promotion preceding that date would not count towards seniority. That was a case where adhoc promotion was made to the Senior Clerk by the railway administration between 9.12.1982 to 7.1.1984. Later on, they were found suitable in the test held, result of which was declared on 28.2.1985. The Apex Court observed it is true that they had been continuing from their respective dates of ad hoc promotion till they were regularized after being selected through due process. But that by itself cannot confer a right on them to claim the adhoc period of service to be tagged on for the purpose of their seniority inasmuch as there is no provision which says that an employee on being regularly promoted, such regular promotion would date back to the date of original promotion in the cadre, which might have been on adhoc basis. It is further held that when the service conditions are governed by a set of rules, in the absence of any rules, it cannot be held that regular promotion would relate back to the date of adhoc promotion itself.

6. At this stage, it will also be useful to quota para 302 of the IREM which is in the following terms:-

*by*

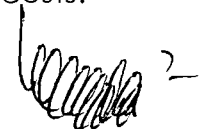
"302. Seniority in initial recruitment grades.- Unless specifically stated otherwise, the seniority among the incumbents of a post in a grade is governed by the date of appointment to the grade. The grant of pay higher than the initial pay should not, as a rule, confer on a railway servant seniority above those who are already appointed against regular posts. In categories of posts partially filled by direct recruitment and partially by promotion, the criterion for determination of seniority should be the date of regular promotion after due process in the case of promotees and the date of joining the working post after due process in the case of direct recruits, subject to maintenance of inter se seniority of promotees and direct recruits among themselves. When the dates of entry into a grade of promoted railway servants and direct recruits are the same they should be put in alternate positions, the promotees being senior to the direct recruits, maintaining inter se seniority of each group.

Note.- In case the training period of a direct recruit is curtailed in the exigencies of service, the date of joining the working post in case of such a direct recruit shall be the date he would have normally come to a working post after completion of the prescribed period of training."

Thus, from the rule as quoted above, it is evident that joining on the working post after completion of prescribed period of training has to be reckoned for the purpose of seniority. The decision in the case of Swapan Kumar Pal (supra) was further reiterated by the Apex Court in the case of Union of India vs. Dharam Pal etc., JT 2009 (2) SC 679.

7. In view of what has been stated above, we are of the view that the applicant has not made out a case for our interference. Accordingly, the OA is dismissed with no order as to costs.

  
(B.L. KHATRI)  
Admv. Member

  
(M.L. CHAUHAN)  
Judl. Member

R/