

Central Administrative Tribunal
Jaipur Bench, JAIPUR

OA.153/2006

This the 23rd day of July, 2010

Hon'ble Mr. M.L.Chauhan, Member (Judicial)
Hon'ble Mr. K.S.Sugathan, Member(Administrative)

Dinesh Kuamr Khatnal S/o Shri Narain Das, aged about 38 years, resident of Plot No. 179/B, Prem Nagar-I, Gurjar Ki Thadi, Jaipur. At present working as OS-I, under the HQ's office, North Western Railway, Jaipur.

Raju Lal Meena S/o Shri Dave Ram Meena, aged about 43 years, resident of A-171, Shiksha Vihar, Ram Nagaria, Jagatpura, Jaipur. At present working as OS-II (Typist), under the HQ's office, North Western Railway, Jaipur

..... Applicants

(By Advocate: Shri Prahlad Sharma)

- Versus -

1. Union of India through General Manager(Personnel), North Western Railway, Headquarter's Office Jaipur.
2. Chief Commercial Mangar, North Western Railway, Jaipur
3. Shri Nainu Ram Meena, At present working as Typist under Railway Claims Tribunal Banipark Jaipur.

..... Respondents

(By Advocate: Shri Siyam proxy counsel for Sh.T.P.Sharma for respondent No.1&2 and Shri C.B. Sharma 1d.counsel for respondent No.3)

O R D E R (ORAL)

When the matter was listed on 27.4.2006, this Tribunal while issuing the notices to the respondents has made the following observations:-

In sum and substance the case of the applicant is that as per Seniority list dated 29.11.2004(Annexure A/2) for the post of Head Typist, the name of the applicant No.1 and No.2 were at Sr. No. 1 & 3 respectively. Thereafter the applicants were also promoted as Office Superintendent Grade -II on 18.1.2005. It is further stated that thereafter the respondents issued a tentative seniority list vide order dated 29.4.2005.(Annexure A/6) by which they propose to place respondent No.3 at Sr.No.1 instead of applicant NO.1 Against this tentative seniority list an objection was filed by the applicants and accordingly the respondents passed order dated 17.8.2005 thereby accepting the representation of the applicants and the situation which was prevalent at the time of the issuance of seniority list dated 29.4.2005 was maintained. Further after the acceptance of the representation of the applicants against tentative seniority list dated 29.4.2005, applicant No.1 was further promoted to the post of S.O. Grade I. The grievance of the applicant is that now the respondents for extraneous considerations have again issued a tentative seniority list dated 13.4.2006 on the same line as was proposed vide tentative seniority list dated 29.4.2005(Annexure A/6), whereby it has been proposed that the name of respondent No.3 shall be at Sr. No.1 instead of applicant No.1. According to the learned counsel for the applicant once the respondents have accepted the representation of the applicants against the said tentative seniority list dated 29.4.2005, it was not permissible for the respondents to again resort to such a course.

Prima facie, I am of the view that the applicant has made out a case for grant of interim stay. Since the respondents have given opportunity to the affected person to file representation against the proposed tentative seniority list dated 13.4.2006(Annexure A/1), though such a course may not be justified in view of the fact that previously on the same line a tentative seniority list was issued vide order dated 29.4.2005(Annexure A/6), which seniority list was not given effect to when the representation against the said seniority list of the applicant was accepted vide order dated 17.8.2005 and in given case filing of the fresh representation against the impugned seniority list Annexure A/1 may be useless formality. Still I am of the view that applicants should file representation against the aforesaid seniority list before the appropriate authority. Accordingly the applicants are directed to file representation against the second tentative

seniority list dated 13.4.2006 within ten days from today and the appropriate authority shall entertain the same and pass speaking and reasoned order as to why they are resorting to such type of method and unsettling the claim of the applicants, more particularly, that of applicant No.1 who at present is working as S.O. Grade I and has earned two promotions on the basis of the seniority list of Head Typist which stand settled on 29.11.2004 whereas the respondent No.3 is still working as Head Typist and this may in a given case amounts to give undue benefit to Respondent No.3, more particularly, when the Respondent No.3 has not challenged the promotion of Applicant No.1 as S.O. Grade II as well as S.O. Grade I and that of applicant No.2 on the post of S.O. Grade II. In order to safeguard the interest of the applicants, I am of the view that the impugned seniority list dated 13.4.2006 may not be given effect to till next date. It is, however, clarified that it will be open for the respondents to consider the objections of the applicants against the tentative seniority list Annexure A/1 and pass speaking and reasoned order in the light of the observations made in the representation as well as in the OA and pass final order. However, such order if against the applicant shall not be given effect to till appropriate order is obtained from this Court."

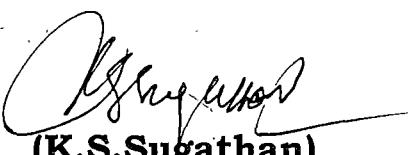
2. The respondents have filed reply. In the reply filed by the official respondents by way of preliminary objection it has been stated that the applicants have filed this OA without availing legal remedy and they should have submitted their objections to the competent authority in the light of the order dated 13.4.2006, although, the respondents have also justified their action on merits. Learned counsel for the private respondent submits that pursuant to the direction given by this Tribunal in the aforesaid terms, the applicants filed fresh objections regarding Tentative Seniority list dated 13.4.2006(Annexure A-1) and the said representations have also been rejected vide order dated 26.2.2007.

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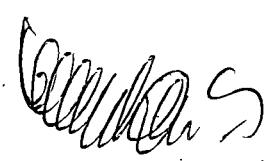
3. Learned counsel for applicants submits that no such order dated 26.2.2007 rejecting the representation of the applicants has been received by the applicants and as such the validity of the order dated 26.2.2007 could not be challenged before this Tribunal.

4. We have given due consideration to the submission made by the parties and perused the material placed on record. We are of the view that present OA can be dispose of at this stage with a direction to the official respondents to communicate the decision so taken on the representation of the applicants within a period of 15 days from today.

5. Needless to add that it will be open for the applicants to challenge such decision taken by the respondents by filing sustentative OA. With these observations the OA is disposed of and the interim relief granted by this Tribunal vide its order dated 27.4.2006 shall remain operative till the decision taken on representation of the applicant is not communicate by the official respondents.



(K.S.Sugathan)
Member (Administrative)



(M.L.Chauhan)
Member (Judicial)

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