

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCHOA. No. 060/00379/2014

Reserved on: 15.04.2015

Pronounced on: 17.4.2015

CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)

Bhagat Singh s/o Khushal Singh r/o House No. 1346, Chanderpuri, P.O.

Kuldeep Nagar, Ambala Cantt, Haryana.

.....Applicant

Versus

1. Union of India through the General Manager, Northern Railways, Baroda House, New Delhi.
2. Senior Divisional Personal Officer, Northern Railway, Ambala Cantt.

.....Respondents

Present: Mr. Atul Arya, counsel for the applicant.

Mr. Lakhinder Bir Singh, counsel for the respondents.



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ORDERHON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-
- "(i) Impugned seniority list (Annexure A/5) may be set aside and seniority of the applicant as well as the other employees should be refixed in accordance to the service record of the applicant and other employees;
 - (ii) Loss in the pay and pension fixation occurred due to the wrong seniority given to the applicant may kindly be compensated to the applicant.
 - (iii) The payment of the overtime done by the applicant which is due to him, alongwith the interest @ 6% p.a. because of the delay caused, may kindly be given to the applicant."
2. Averment has been made in the OA that the applicant was appointed as Gangman on 15.5.1967 in the Railways at Shimla and had been appointed as Trolleyman in Ambala in 1973. He passed the trade test of Driver in 1987 (Annexure A-1) and although he was promoted to the post of Driver, but he was kept in the Grade of Trolleyman. The copies of documents showing that he was appointed as Driver but still designated as Trolleyman are annexed (Annexures A-2 and A-3). Although the applicant was promoted as Driver, he was not getting any benefit of the same i.e. seniority and further promotions that were due to him. The

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promotion of the applicant to the post of MCM Driver in the scale of Rs. 5000-8000 became due on 7.5.1993, but he was not given the same. It is claimed that the applicant was at Sr. No. 3 as per the seniority list dated 1.4.1993 (Annexure A-4) and the seniority list at the time of retirement of the applicant showed that he had been wrongly placed (Annexure A-5). The applicant submitted several representations, but no action was taken in the matter and a few of such representations are annexed as Annexures A-6 to A-13.

3. In the grounds for relief, it has been stated interalia as follows:-

- (i) The applicant had cleared the trade test in the year 1987 and hence became eligible for the post of Driver. A perusal of the trade test result annexed as Annexure A-1 and the seniority list dated 01.04.1993 annexed as Annexure A-4 shows that the applicant should be placed above in the impugned final seniority list annexed as Annexure A-5. Therefore, seniority of the applicant had been wrongly fixed and he is placed wrongly in the list which resultantly caused him the loss of his pay fixation as well as in the pension fixation. Therefore, the impugned seniority list (Annexure A-5) being wrong is liable to be set aside and the seniority of the applicant should be refixed and a new seniority list should be made according to the service record of the employees.
- (ii) The employees placed above the applicant in the impugned seniority list (Annexure A-5) are unscreened casual labourers and some came from construction casual labours whose screening record is not available with the service records. The applicant belonged to this department and had also cleared the trade test before the other employees, therefore, they cannot be treated as

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senior to the applicant. Therefore, the impugned seniority list (Annexure A-5) being wrong is liable to be set aside.

- (iii) The applicant had made so many representations to the authorities, oral as well as written, regarding the wrong fixation of seniority from the year 1993 to 2013, but no representation of the applicant is answered or replied by the authorities which shows their malafide intentions to them.

The applicant even approached the Pension Adalats held from time to time, but could not get redressal of his grievances. Hence this OA.

4. MA. No. 060/00579/2014 has been filed seeking condonation of delay in filing the OA.

5. In the written statement filed on behalf of the respondents, it has been stated that OA combines multiple relief in contravention of the Administrative Tribunals Act, 1985 and rules thereunder. The applicant claims seniority, payment of salary and pension which have nothing to do with each other. Wrong seniority does not give rise to loss of salary or pension. Entitlement to a higher salary or pension can only result from promotion/appointment to a higher post. The applicant has not prayed for his promotion. The OA challenges seniority list (Annexure A-5) which does not even purport to be a seniority list issued by the Railway Administration and is undated, unsigned and unauthenticated by any Railway Officer. The OA is also hopelessly time barred. There is no

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possible explanation for the inordinate delay in challenging the alleged seniority list (Annexure P-5) claimed by the applicant to be of 2005 when the applicant retired. Moreover, he cannot challenge the seniority after 9 years of his retirement especially without making the affected persons parties. The OA is also time barred as he claims overtime from 29.12.1990 to 26.12.1994 i.e. over 20-24 years ago. The applicant alleges that he should have been promoted as MCM driver in the scale of Rs. 5000-8000 on 7.5.1993 but makes no such prayer in the relief clause.

6. Rejoinder has been filed reiterating the content of the OA.
7. Arguments advanced by the learned counsel for the parties were heard when both counsel reiterated the content of the OA, rejoinder and the written statement respectively.
8. We have given our thoughtful consideration to the matter. The documents annexed with the OA do not support the claim of the applicant that he was ever promoted as Driver. Even the lists annexed as Annexures A-4 and A-5 do not indicate the date of the issue of these seniority lists. Annexure A-5 does not even indicate the title of the document. Moreover, there is nothing substantial in the application for condonation of delay, nor is anything pointed out as to how the seniority of the applicant has been wrongly fixed. The OA is barred on account of

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limitation, it is bad on account of multiple relief being sought and for non-joinder of the necessary parties and the same is therefore, dismissed.

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**(RAJWANT SANDHU)
MEMBER(A)**

B. A. Agrawal
**(DR. BRAHM A.AGRAWAL)
MEMBER(J)**

Dated: 17.4.2015

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