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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

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**ORIGINAL APPLICATION NO.060/00159/2014**

**Order Reserved on 16.10.2014  
Pronounced on 28 .10.2014**

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).  
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A).**

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1. Prem Nath Singh S/o Sh. Rama Shankar Singh, Ticket No.5858
2. Narender Kumar S/o Sh. Kewal krishan, Ticket No.5830.
3. Suresh Kumar S/o Sh. Punjaba Ram, Ticket No.5839.
4. Dayanand Sharma S/o Sh. Acche Lal Sharma, Ticket No.5838.
5. Surender Kumar S/o Sh. Paan Singh, Ticket No.4787
6. Jaswinder Pal S/o Charan Dass, Ticket No.1839
7. Ram Saran S/o Sh. Sant Ram, Ticket No.5796
8. Amarjit Singh, S/o Sh. Sawinder Singh, Ticket No.4717
9. Vishal Singh S/o Sh. Gulab Singh, Ticket No.5799
10. Lakhwinder Singh S/o Sh. Fauja Singh, Ticket No.5800
11. Sahib Din S/o Sh. Gaya Pd. Ticket No.4990
12. Hans Raj S/o Sh. Havela Ram, Ticket No.5819
13. Joginder Singh S/o Sh. Phool Chand, Ticket No.6777
14. Santosh Kumar S/o Sh. Adhoya Parshad, Ticket No.7622
15. Harcharan Singh S/o Sh. Ajit Singh, Ticket No.4986
16. Harpal Singh S/o Sh. Inder Singh, Ticket No.4745
17. Ram Sanjeevan S/o Ram Nath, Ticket No.5818
18. Brij Lal S/o Sh. Ram Krishan Ticket No.5593
19. Ram Kumar S/o Sh. Puran Chand, Ticket No.5831
20. Nand Paul Singh, S/o Sh. Kumler Singh, Ticket No.5836
21. Chander Shekhar S/o Sh. Asarfi Toto, Ticket No.5566
22. Brij Pal Singh S/o Sh. Chamel Singh, Ticket No.5876
23. Davinder Singh S/o Sh. Vir Singh, Ticket No.8387
24. Darshan Kumar, S/o Brij Lal, Ticket No.4813
25. Rakesh Kumar S/o Sh. Ladhu Ram, Ticket No.8388
26. Bhawnesh Dutt, S/o Sh. Paltu Ram, Ticket No.4854
27. Naresh Kumar S/o Sh. Kartar Chand, Ticket No.8467
28. Jagdeep Singh, S/o Sh. Surain Singh, Ticket No.5852
29. Brahm Pal S/o Sh. Kanshi Ram, Ticket No.5790
30. Ram Nath S/o Sh. Gainda Ram, Ticket No.6861
31. Khub Chand S/o Sh. Bhulla Ram, Ticket No.5791
32. Som Nath S/o Sh. Ram Pal, Ticket No.7772.
33. Lakhwinder Singh S/o Sh. Dalip Singh, Ticket No.205.

*h.s.d*

All are working as Grade-III Artisans in Blacksmith Shop, Northern Railway, Jagadhari Workshop, Jagadhari, Yamunanagar.

...APPLICANTS

**VERSUS**

1. Union of India, Ministry of Railways, Railway Board, New Delhi.
2. General Manager, Northern Railway, Baroda House, New Delhi.
3. Chief Workshop Manager, Northern Railway, Jagadhari Workshop, Jagadhari, Yamunanagar.

...RESPONDENTS

**Present:** Sh. Satish Goel, counsel for the applicants.  
Sh. Yogesh Putney, counsel for the respondents.

**ORDER**

**BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:
  - i. For quashing of Annexure A-8, whereby the applicants have been denied to grant financial benefits on Re-deployment of surplus staff as per consolidate instructions issued vide Reg. No.206/2000E/(MPP)/99/1995, dated 28.11.2000 by the Director (MPP) Railway Board.
  - ii. A direction be issued to the respondents to grant the financial benefits on Re-deployment of surplus staff to the applicants as per consolidate instructions issued vide Reg. No.206/2000E/(MPP)99/1995, dated 28.11.2000 by the Director (MPP) Railway Board at par with the employees where their seniority was to be fixed as per circular and instructions."
2. Averment has been made in the OA that the applicants who are grade-III Artisans Staff of Jagadhari Workshop and are presently working in Blacksmith Shop in Jagadhari Workshop, were rendered

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surplus as a result of cadre review. They were required to be redeployed and allotted to the revised trades and shops after redeployment according to seniority and criteria of Trade and Shops submitted by them taking into account vacancies available for them as far as possible as per decision taken in the meeting held on 08.01.2001 (Annexure A-1). This exercise was accordingly taken by Asstt. Personnel Officer, Northern Railway, Jagadhari Workshop vide No.753-E/21/Redeployment/EV dated 26.02.2001 (Annexure A-2). This was in accordance with Govt. of India, Ministry of Railway No.E(MPP)/99/1/75 dated 28.11.2000 (Annexure A-3). Total 123 persons were rendered surplus, 36 have been redeployed in other shops and trades, 87 persons have been redeployed, but they have not been given their seniority in trades and shops where they are actually and physically redeployed. The apparent reason being assigned by the local administration is that their Union does not agree to allot them the correct seniority in the respective trades and shops where they are at present redeployed and the redeployed staff will get their seniority in their original cadre of Blacksmith. Copy of minutes of meeting dated 17.8.2001 is annexed as Annexure A-4. The decision so rendered by the local administration is in conflict with the policy letter No. E(MPP)/1/75 dated 28.11.2000.

3. It is further claimed that though the applicants were in the Blacksmith Cadre, they were declared surplus and on redeployment

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their seniority was to be fixed in other cadres along with the employees in those cadres according to their length of service, but since a decision had been taken by the Railway Board to the effect that the cadre of Blacksmith is a large cadre and it will disturb the seniority in the cadres in which they would be deployed as such their seniority was to be maintained in their original cadre of Blacksmith for the purpose of promotion etc. The seniority as determined by the Railway Board after redeployment was to be assigned with the employees of different cadres which the applicants had opted but they have been given step-motherly treatment by retaining them in their original cadre of Blacksmith for the purpose of their seniority and promotion etc. which is non-existent after declaring surplus and on redeploying of the employees. Although as per the claim of the applicants their seniority was to be fixed above the employees in the Rs.5200-20200+2800 pay band viz. Sh. Jagdish Chand (Sl. No.239 to 285), Sh. Rajesh Kumar (Sl. No.719-721) and Sh. Mohinder Singh (Sl. No.722-750) and many others but the applicants had been retained in Technician Grade-III in pay scale of Rs.5200-20200+2000 pay band and the applicants are getting much lower financial benefit than their juniors while it is settled law that senior cannot draw less pay then the juniors (Extract of seniority list as on 11.08.2011 of the senior Technician Grade-I, II and III circulated by Railway Board of different categories is annexed as Annexure A-6). It is claimed that the applicants made several representations to the

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respondents to consider their case for granting them financial benefit after fixing their seniority notionally in the other cadres according to decision of the Board taken on 8.1.2001 but all in vain (Annexure A-7). The respondents have given evasive reply dated 5.9.2013 and denied the benefits claimed by the applicants (Annexure A-8). Hence this O.A.

4. In the written statement filed on behalf of the respondents several preliminary objections have been taken. It has been stated that the applicants have impugned Annexure A-8 by which the delayed representations of the applicants were rejected. However, the basis and decision of Railway Board on which the delayed representation was rejected, has not been assailed. Decision in this regard was taken on 17.08.2001 (Annexure A-4) jointly with the two recognized Unions. This joint decision dated 17.08.2001 (Annexure A-4) is also owned by the applicants in para 4(x) of the OA. Hence, the applicants cannot be allowed to challenge decision dated 17.08.2001 (Annexure A-4) under the guise of Annexure A-8 particularly when the decision dated 17.08.2001 has been held to be legal by this Tribunal in OA No.512/HR/2004 in the matter of Jasmer Singh & Ors Vs. UOI & Ors., decided on 20.08.2004. RA No.54/2004 which was filed in this regard was also dismissed on 25.1.2005. These facts had been intentionally concealed by some of the applicants who were also applicants in the earlier round of litigation in the matter of Jasmer Singh (supra) and the

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present OA is a sheer abuse of process of law and deserves to be dismissed. On the basis of the decision dated 17.08.2001 which is relatable to seniority many promotions / direct appointments have been made in the interregnum. Such persons have not been impleaded and the OA deserves to be dismissed on the ground of non-joinder of necessary parties.

5. It is further stated that the issue involved in the present OA is no longer res-integra. The decision dated 17.08.2001 which is later in point of time, has been considered and held intravires in Jasmer Singh (supra). Applicants at Sl. No.2, 4, 6,7, 9, 10, 12, 17, 18, 20, 22, 28, 29, 31 and 33 in the present OA were also applicants in OA No.512/HR/2004 and this material information has been concealed which calls for serious action against them besides dismissal of the OA with exemplary costs. Seniority list dated 11.08.2011, as on 11.08.2011 (Annexure A-6), is not under challenge, nor the same can be challenged as much water has flown in between and in view of the law laid down <sup>that</sup> the settled seniority position cannot be unsettled at such a belated stage as various promotions have taken place during this period. The OA is also barred by the principle of res-judicata in as much as similar controversy has already been adjudicated upon by this Tribunal in Jasmer Singh (supra). Hence the OA deserves to be dismissed with costs. The OA also suffers from the vice of delay and laches. Obliquely the applicants have

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raised the issue of seniority on their re-deployment, having been declared surplus, way back on 26.02.2001 (Annexure A-2). Seniority is not a vested or accrued or neither fundamental right, nor the same is a continuing and recurring cause. There is no cause of action and no application for condonation of delay. The representation dated 09.07.2013 (Annexure A-7) claiming relief qua instructions dated 28.11.2000, which stand superseded on 17.08.2001 and are not in existence, as held in Jasmer Singh (supra) is not sustainable and the OA deserves outright dismissal.

6. On merits it has been stated that as a result of cadre review conducted at Jagadahri Kalka Workshop group as per orders of Railway Board during the year 2000, 123 Artisan Staff i.e. Technician Gr.III Grade Rs.3050-4590/5200-20200 + Rs.1900 Grade Pay were rendered surplus in various trades (which includes the applicants also, who belong to Black Smith Trade). They were allotted revised trades and shops after re-deployment according to seniority and criterion of option of trade and shop submitted by them and posted in various shops as per this office letter No.753-E/2/1//Re-deployment/EV dated 26.02.2001 (Annexure A-2 with OA) as per decision taken in consultation with both the recognized Unions of Jagadahri Workshop on 08.01.2001 (Annexure A-1). It is clearly mentioned in this notice that the seniority of these staff will be fixed as per extent rules. On representation of staff

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of those trades in which the staff of Black Smith Trade was re-deployed through recognized Unions that the Black Smith staff will rank senior to them due to length of service and it will hamper their promotional prospects, the decision already taken on 08.01.2001 was reviewed in consultation with both the recognized Unions of Jagadahri Workshop on 17.08.2001 (Annexure A-4 with the OA) wherein it was decided that the staff of Black Smith trade who were rendered surplus and re-deployed in other trades will now seek promotion in their own cadre and will get seniority in their original cadre of Black Smith trade although they may be working in the trades where they have been re-deployed. This was done as the number of staff of Black Smith trade being re-deployed was very large and in accordance with the Railway Board's instructions with regard to the seniority of staff rendered surplus on deployment circulated vide Railway Board's letter No.E(NG)/II/84/RE-1/10, dated 21.04.1989 Master Circular 22/90 para 17(iii), that staff should continue to maintain seniority in their own cadre (Annexure A-5 with OA).

#### V. SENIORITY OF STAFF RENDERED SURPLUS ON REDEPLOYMENT

"17. When re-deploying the surplus staff to other Units / Departments which constitute a different seniority unit, the following methods could be adopted:

- (iii) Whenever a large number of staff have to be transferred to existing units against vacancies or additional sanctioned posts, the views of the Unions may be taken as to whether the seniority of the staff being shifted should be kept separate against the "special supernumerary" posts, so that their

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promotional prospects are kept separate and identical to what they would have achieved in the old Unit and it does not jeopardize the promotional prospects of the staff in the Units in which they are being inducted. In such cases, the application of percentage distribution of posts would be separate for the existing cadre posts and the surplus staff who have been brought into the cadre, the latter being controlled by the percentage as applicable to their previous cadre. However, as and when there is wastage through retirement, promotion etc. in the seniority unit of shifted staff charged against "special supernumerary" posts in the direct recruitment grades, the direct recruitment quota of the staff should be merged with the existing cadre seniority of that unit, i.e. the Unit to which they had been re-deployed on being surplus.

(No.E(NG)II/84/RE-1/10, dated 21.04.1989)."

It has been clearly specified in para 17(iii) of Master circular 22/90 (Annexure A-5 with OA) that whenever a large number of staff declared surplus have to be transferred to existing units against vacancies or additional sanctioned posts, the views of the Unions may be taken as to whether the seniority of staff being shifted should be kept separate against the "Special Supernumerary" posts, so that their promotional prospects are kept separate and identical to what they should have achieved in the old unit and it does not jeopardize the promotional prospects of the staff in the units in which they are being inducted. Keeping in view these instructions, the recognized Unions of this workshop were consulted on 17.08.2001 to review the decision taken in the meeting on 08.01.2001 (Annexure A-1) on representation of staff of those trades in which the staff of Black Smith trade were re-deployed

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that the Black Smith staff will rank senior to them due to length of service and it will hamper their promotional prospects. As mentioned earlier, the decision already taken on 08.01.2001 was reviewed in consultation of recognized Unions of this workshop on 17.08.2001 wherein it was decided that the staff of Black Smith trade who <sup>were</sup> rendered surplus and re-deployed in other trades will now seek promotion in their own cadre and will get seniority in their original cadre of Black Smith trade although they may be working in the trades where they have been re-deployed (Annexure A-4 with OA). It was thus clear that the decision taken on 17.08.2001 and circulated vide letter dated 31.08.2001 (Annexure A-4) was correct and for the benefit of applicants so that their promotion prospects are kept separate and identical to what they would have achieved in the old Unit and their redeployment does not jeopardize the promotion prospects of the staff in the trades in which they have been redeployed.

7. Rejoinder has been filed on behalf of the applicants wherein content of the OA has been reiterated.

8. Arguments advanced by learned counsel for the parties were heard. Learned counsel for the applicants reiterated the content of the OA and rejoinder and pressed that the applicants should be granted financial benefit on redeployment and they should get their seniority and pay scale in the Units where they had been redeployed. Ans

9. Learned counsel for the respondents drew attention to the content of Annexure A-4: Minutes of Meeting held on 17.8.2001 with both the recognized Unions JUDW KLK. He stated that it was clear from the same that the staff of Blacksmith cadre who had been rendered surplus and redeployed in other trades were to get seniority and promotion in their own cadre of Blacksmith even though they may be working in the trades where they had been redeployed. Learned counsel further stated that this agreement dated 17.8.2001 was also considered while deciding OA No.512/HR/2004 on 20.8.2004 by this Tribunal. This order dated 20.8.2004 clearly showed that the agreement of 17.8.2001 had been considered in detail and the same had been upheld and at this stage the applicants could not seek to reopen the whole issue. Learned counsel also stated that the applicants had not disclosed full facts of the matter in their OA and the OA was also barred by limitation as this had been filed in February 2014 while issue regarding deployment of surplus staff of the Jagadhari Workshop in the Blacksmith category stood settled in 2001. Learned counsel also stated that the applicants were seeking pay scale of the C & W category while they were Blacksmiths and had to get seniority and pay scale in their own category.

10. We have carefully considered the pleadings of the parties and the material on record. It is evident that the issue regarding claim of the applicants for the seniority and financial benefits and promotion in

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the trades where they had been redeployed had been considered in detail by the Chandigarh Bench while deciding OA No.512/HR/2004 on 20.8.2004 and the review application filed regarding this order was also dismissed on 25.1.2005. Since the surplus Blacksmith employees are being treated as per decision of 17.8.2001 which was upheld by this Tribunal in OA No.512/HR/2004, the claim of the applicants in the OA is without merit and hence the same is rejected.

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

**(SANJEEV KAUSHIKI)**  
**MEMBER (J)**

**Place: Chandigarh.**  
**Dated: 28/02/2014.**

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