

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 888/2014

Reserved on: 23.11.2015
Pronounced on: 27.11.2015

**Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P.K. Basu, Member (A)**

1. Udai Ram s/o Shri Dharam Singh,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o 319 B, Dhadhan Mohalla,
Sai Niwas Badarpur, New Delhi.
2. Balwan Singh s/o Sh. Suraj Bhan,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o 667/12, Salara Mohalla,
Rohtak.
3. Amar Singh Sagar s/o Sh. Het Singh,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o A-214, Shiv Durga Vihar,
Faridabad, Haryana.
4. Santosh Kumar Mandol
S/o Sh. Khemlal Prasad,
Loco Pilot Goods
Under SR Crew Controller GZB.
R/o G-129, Sec-9, Vijay Nagar, GZB.
5. Santosh Kumar s/o Sh. Jageshwar,
Loco Pilot Goods
Under SR Crew Controller GZB.
R/o F-235, Sec. 9, New Vijay Nagar, GZB.
6. Ghansham Dass s/o Sh. Kharati Lal,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o 50/2, Flate B-2, Devli Ext.,
Delhi -110 062.

7. Sh. Santosh Kumar s/o Sh. Deo Narayan,
Loco Pilot Goods
Under SR Crew Controller GZB
R/o F-162, Sec.9, New Vijay Nagar, GZB.
8. Mukesh Meena s/o Sh. Ram Nath Meena,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o B-62, Maharani Enc.,
New Delhi – 110 059.
9. Sanjeev Kumar s/o Sh. Panna Lal,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o 44 A G/F Mashib Garh,
New Delhi – 25.
10. Shyam Lal s/o Sh. Ram Sahai,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
11. Parvinder Singh s/o Sh. Tara Chand
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o T/75A Guard Line.
12. Arjun Lal Meena s/o Sh. Hanse Ram Meena,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o B/12-48, Pul Phaladpar-TKD.
13. Lokesh Mohan s/o Sh. Moti Singh,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o C-70, Dayal Bagh Colony,
Faridabad – 121 009.
14. Vivek Kumar Ranjan s/o Sh. Ram Avtrar,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o F-23, New Vijay Nagar, GZB.

15. Dharm Raj Meena s/o Sh. Jag Ram Meena,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o B-23, Trainsit Camp,
Railway Colony, TKD.
16. Ram Dhan Meena s/o Sh. Gainda Lal Meena,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o 133/11, DCM Railway Colony,
Delhi Kishan Ganj.
17. Ram Niwas Meena s/o Sh. Sharvan Ram Meena,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o 141, C Loco Railway Colony,
Delhi Kishan Ganj.
18. Suresh Chand Meena s/o Sh. Bajrang Lal Meena,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o GA 50 A Pull Pahlad Pur
New Delhi – 110 044.
19. Suresh s/o Sh. Ram Lal
Loco Pilot Goods
Under SR Crew Controller GZB
R/o E-110, Sec.9,
New Vijay Nagar GZB.
20. Birendra Singh s/o Narpat Vishia Nath Singh,
Loco Pilot Goods
Under SR Crew Controller GZB
R/o L-42 B, Sector 9,
New Vijay Nagar GZB.
21. Ganpat Singh s/o Sh. Late Bhudev Singh,
Loco Pilot Goods
Under SR Crew Controller GZB
R/o 1114, Old Vijay Nagar GZB.
22. Ram Bhrose s/o Sh. Kirpa Ram,
Loco Pilot Goods
Under SR Crew Controller GZB
R/o VIII Potha Sundra
Partapur Meerat UP.

23. Narender Kumar s/o Sh. Toto Ram
Loco Pilot Goods
Under SR Crew Controller GZB
R/o X-14, Street No.2,
Brahmpuri, Delhi – 53.
24. Ajay Anand s/o Sh. Chandra Deo Prasad,
Loco Pilot Goods
Under SR Crew Controller GZB
R/o 355 D, Sain Colony, GZB.
25. Ram Pratap Gupta s/o Sh. Indra Narayan Gupta,
Loco Pilot Goods
Under SR Crew Controller GZB
R/o 350-C, Railway Sen Colony.
26. Vinod Kumar Sah s/o Sh. Mahesh Sah,
Loco Pilot Goods
Under SR Crew Controller GZB
R/o RZ/B-46, Sitapuri Part-II,
G.No.2, Post-Mongolpuri,
New Delhi – 110 045.
27. Babu Lal s/o Sh. Ramji Lal
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o RZF-756/3, Raj Nagar Part-2,
Palam Colony, New Delhi – 45.
28. Ravindra Singh s/o Sh. Bharat Singh
Loco Pilot Goods
Under SR Crew Controller GZB
R/o A-7/235, Rahul Vihar-I GZB.
29. Dheerendra Kumar Singh s/o Sh. Budha Singh,
Loco Pilot Goods
Under SR Crew Controller GZB
R/o E-96, Sec.9, New Vijay Nagar, GZB.
30. Babu Ram s/o Sh. Mohar Singh,
Loco Pilot Goods
Under SR Crew Controller
Tughlakabad, New Delhi
R/o F-160-Gali No.17, Pul Phelad Pur,
New Delhi-44.

31. Bhuwneshwar Sahani s/o Sh. Ramprit Sahani,
 Loco Pilot Goods
 Under SR Crew Controller GZB
 R/o 356-B, Railway Sen Colony, GZB.

32. Rajinder Pal s/o Sh. Hans Raj,
 Loco Pilot Goods
 Under SR Crew Controller
 Tughlakabad, New Delhi.
 R/o P-118, Planji Village,
 Sarojini Nagar, New Delhi.Applicants

(By Advocate: Mrs. Meenu Mainee)

Versus

1. Union of India through
 Secretary- Railway Board,
 Ministry of Railways,
 Rail Bhawan, New Delhi.

2. General Manager,
 Northern Railway Headquarters,
 Baroda House, New Delhi.

3. Divisional Railway Manager,
 Northern Railway,
 State Entry Road,
 New Delhi.Respondents

(By Advocate: Sh. S.M. Arif and Ms. Shabnam)

O R D E R

By Hon'ble Mr. P.K. Basu, Member (A):

The applicants are Diesel/Electric Assistants in the Railways. They get promoted to the next higher grade as Loco Pilot Goods. The applicants were promoted as Loco Pilot Shunters in the Grade Pay of Rs.2400/- and thereafter they were ordered to be promoted as Loco Pilot Goods in Pay Band Rs.9300-34800/- with Grade Pay of Rs.4200/-, vide order

dated 13.07.2011. The order communicating their promotion as Loco Pilot Goods states as follows:-

“...Accordingly the following Loco Pilot Shunters are promoted as Loco Pilot Goods in PB 9300-34800 GP 4200 and posted at the station/traction shown against each, with immediate effect, subject to passing of their requisite pre-promotional course, conversion course where involved and completion of requisite foot plate experience and if nothing adverse is pending against them which disentitles them from the promotion to the post of Loco Pilot Goods...”

In view of the above, the applicants were required to pass pre-promotional course and after completion of foot plate experience and if nothing adverse is pending against them, they were to get the promotion.

2. The applicants' grievance is that quite a number of Shunters got promoted immediately after issuance of the aforesaid letter because they were promoted at the same very station at which they had been working as Shunters, but the applicants, most of whom had been transferred on promotion from one station to another or even at the same station, were relieved late and reported at the places of their posting immediately after being relieved where, however, they were put to work as Shunters, and thereafter promoted as Loco Pilots on different dates and, therefore, there was a delay in effecting their promotions. The applicants were promoted after they submitted representation on 19.09.2011 in terms of which the Senior Divisional Mechanical Engineer and DRM's office were requested to get them spared to carry out their transfer and promotion. Although most of the Shunters including the juniors

had been spared for promotion from the Headquarters of Ghazibad, Tughlakabad, New Delhi and Panipat and, therefore, there should be no delay in sparing the applicants to effect their promotions which was likely to adversely affect their emoluments and seniority. It is further stated that as a result of delayed promotion, the applicants are getting less pay as compared to their juniors. This OA has, therefore, been filed with the following prayers:-

- “8.1 That this Hon’ble Tribunal may graciously be pleased to allow the application and quash the impugned order.
- 8.2 That this Hon’ble Tribunal may further be graciously pleased to direct the respondents to release the annual increments of the applicants and step up their salaries at par with their juniors with all consequential consequences.
- 8.3 Pass any other or further order which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.
- 8.4 That the cost of the proceedings may kindly be granted in favour of the applicants and against the respondents.”

3. The learned counsel for the applicants states that vide the impugned order dated 25.10.2013 the respondents have rejected their claim for entitlement to increment falling in July, 2012 on the ground that their juniors had taken independent charge as Loco Pilot Goods before the date the applicants had taken the independent charge of the said post, and the

applicants have not even completed six months from the date of promotion to the date of increment i.e. July, 2012.

4. The only argument of the applicants is that they are not responsible for the delay in sending them for pre-promotional/refresher course.

5. The learned counsel for the respondents relies upon Note.10 – Para 10 of the instructions contained in RBE No.103/2008 dated 04.09.2008, which provides as under:-

“ Note-10 – Para 10: Date of next increment in the revised Pay Structure. There will be a uniform date of increment viz 1st July of every year. Employees completing 6 months and above in the revised Pay Structure as on 1st July will be eligible to be granted the increment. The first increment after fixation of pay on 01.01.2006 in the revised Pay Structure will be granted on 01.07.2006 for those employees for whom, the date of next increment was between 1st July, 2006 to 1st January, 2007.”

The details of promotion of the applicants as Loco Pilot Goods are also explained as under:-

Sl. No.	Name of the applicant	Date of promotion as Loco Pilot Goods
1	Udai Ram	26.04.2012
2	Balwan Singh	30.06.2012 (failed in promotional/refresher Course)
3	Amar Singh Meena	11.02.2012 (failed in promotional/refresher Course)
4	Santosh Kr. Mandal	22.03.2013
5	Santosh Kumar	16.03.2012
6	Ghanshyam Dass	07.02.2012
7	Santosh Kr./Deo Narain	01.06.2012
8	Mukesh Meena	27.02.2012
9	Sanjeev Kumar	27.04.2012
10	Shyam Lal	30.06.2012
11	Parvinder Singh	22.05.2012
12	Arjun Lal Meena	14.03.2012 (failed in promotional/refresher Course)

13	Likesh Mohan	15.05.2012 (failed in promotional/refresher Course)
14	Vivek Kr. Ranjan	22.03.2012
15	Dhanraj Meena	03.05.2012 (failed in promotional/refresher Course)
16	Ram Dhan Meena	13.12.2012
17	Ram Niwas Meena	28.04.2012 (failed in promotional/refresher Course)
18	Ram Niwas Meena/Bajrang Lal Meena not Suresh Chand Meena	13.12.2012
19	Suresh	03.05.2012
20	Birendera Singh	13.01.2012
21	Ganpat Singh	19.03.2012
22	Ram Bharose	16.03.2012
23	Narender Kumar	07.06.2012
24	Ajay Anand	17.05.2012
25	Ram Pratap Singh	02.03.2012
26	Vinod Kr. Sah	02.06.2012
27	Babu Lal	06.07.2012 (failed in promotional/refresher Course)
28	Ravinder Singh	19.02.2012
29	Dharmendera Kr. Singh	17.03.2012
30	Babu Ram	02.06.2012
31	Bhubneshwer Sahni	Under Going Punishment
32	Rajinder Pal	Under Going Punishment

6. The learned counsel for the respondents states that it would be seen that out of 32 applicants, applicants at serial nos. 2, 3, 12, 13, 15, 17 and 27 above failed in the promotional course in the first attempt. However, they have qualified the promotion course/refresher course in the second attempt. It is relevant to note here that the applicants at serial nos. 31 & 32 were undergoing punishment at the time of issuance of promotion order dated 13.07.2011 and were given the benefit of promotion only after expiry of the punishment. It is, therefore, stated that since it was clearly mentioned in the order itself that they would have to pass the pre-promotional course and

complete other formalities, there was no question of making their promotion effective unless they completed the same. In fact, several of the applicants failed in promotional/refresher course, and two of them were even facing punishment.

7. The learned counsel for the applicants also tried to argue that the juniors to the applicants were released first by the respondents and, therefore, the applicants cannot be made to suffer for this fault of the respondents. In this regard, she relied on ***V. Brahmiah V/s. Chief Personnel Officer and Anr.*** [AISLJ 1992 (2) (CAT) 205], ***Union of India V/s. Smt. Sadhana Khanna*** [AISLJ 2009 (1) (SC) 180] and ***Union of India & Ors. V/s. Shantiranjan Sarkar*** [2009 (3) SCC 90]. However, we find that the applicants have not made any of these so-called juniors a party to this OA and also this is not specifically a ground in the OA either except the juniors drawing higher pay being mentioned. Therefore, in view of the judgment dated 01.04.2010 of the Hon'ble Supreme Court in ***State of Maharashtra V/s. Hindustan Corporation*** [Civil Appeal No.2928 of 2010 – arising out of SLP(1) No.3937 of 2009], this ground cannot be raised at this stage. Had this ground been raised in the pleadings in the OA, the juniors could be noticed and also the respondents got a chance to rebut their claim.

8. We have heard the learned counsel for the parties and perused the records.

9. In the facts and circumstances of the case, we are of the view that the respondents have followed the rules, and when an employee has cleared the requisite qualification needed to hold the promotional post, only then he has been granted the promotion as a consequence of the order dated 13.07.2011. We, therefore, do not suppose that any irregularity or illegality has been committed by the respondents, rather they have acted strictly in accordance with rules.

10. Finding no merit in the instant Application, the same is dismissed accordingly. There shall be no order as to costs.

**(P.K. Basu)
Member (A)**

/Ahuja/

**(Syed Rafat Alam)
Chairman**