

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

OA No. 060/00809/2015

Date of decision- 22.11.2017

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

...

Maha Singh S/o Sh. Maninder Singh aged 31 years

Working as Commercial Clerk in the

O/o Station Superintendent, Dhuri Junction (District Sangrur (Punjab)
under Divisional Railway Manager, Northern Railway, Ambala Cantt.,
Ambala.

...APPLICANT

BY ADVOCATE : Mr. Jagdeep Jaswal, Advocate.

VERSUS

1. Union of India,
Through General Manager, Northern Railway, Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway, Ambala Cantt., Ambala.
3. Divisional Personnel Officer, Northern Railway, Ambala Cantt.,
Ambala.
4. Tajwinder Singh.
5. Jagmohan Singh.
6. Neha Pandey.
7. Davinder Yadav.
8. Naraini Devi.
9. Atul Rajput.
10. Rajni.
11. Suman Lata.
12. Neelam Rani.

13. Inderpal.
14. Ritu Rani.
15. Kulwant Singh.
16. Pushpawati.
17. Aman Gupta.
18. Ramanpreet Kaur.
19. Puran Mal Meena.
20. Rajesh Kumar.

(Respondents no. 4 to 20, proceeded ex parte vide
order dated 26.08.2016)

21. Rajesh Kumar Meena. (Deleted).
22. Chander Parkash.(Exparte)
23. Parmod Kumar. (Exparte)
24. Narsingh Meena. (Deleted).
25. Pawan. (Exparte)
26. Gaurav Sharma. (Exparte)
27. Pawan Kumar. (Deleted)
28. Srikanth Mandal. (Deleted)
29. Net Ram Meena. (Exparte)
30. Kalu Ram Meena. (Exparte)
31. Deepak. (Exparte)
32. Manisha Kohli. (Deleted).

Respondent no. 4 to 32 are working as Commercial
Clerks under Divisional Railway Manager, Northern
Railway, Ambala Cantt., Ambala.

...RESPONDENTS

BY ADVOCATE: Mr. Suresh Verma, Advocate.

ORDER (ORAL)

SANJEEV KAUSHIK, MEMBER(J):-

The applicant challenged the correctness of impugned seniority list dated 15.07.2014 (Annexure A-1) wherein the applicant has been placed at S.No. 10 in the seniority list by treating his date of joining as 29.08.2007 instead of 22.02.2002. He further sought quashing of order dated 28.08.2007 (Annexure A-2).

2. MA No. 060/01703/2017 for placing on record Annexures A-10 and A-11 is allowed. Annexures A-10 & A-11 are taken on record.

3. The facts are not in dispute. The applicant commenced his service as Commercial Clerk with the respondent-department after being selected an outstanding sportsperson as a result of direct appointment vide order dated 08/18.02.2002. It is the case of the applicant that the respondents availed his services by deputing him to various tournament including the Railway Athletic Championship details of which has been annexed as Annexure A-11 (at page 110) starting from 22.02.2002 to 29.08.2007.

4. Mr. Jaswal, learned counsel for the applicant submitted that the applicant was attending the sport events for the Railway itself, as such, he was never deputed for training. Though in the written statement, the respondents come with a plea that despite there being communication to the applicant to join the training, he did not join but documents shown by applicant indicates those letters were never forwarded to him expect one letter for which he has already given his explanation that he was on sports training at that time, therefore, he could not join. Despite the fact that the applicant was attending Athletic Championship/tournament for railways, the applicant cannot be deprived of seniority from the date when he joined

the service of respondent department. He also placed reliance upon the note 1 below 302 point of "Rules Regulating Seniority of Railway Servants" (Annexure A-9), which reads as under:-

"Note (i) 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."

5. Mr. Verma, learned counsel for the respondents submitted that in terms of rule formulation, seniority of the applicant is to be fixed when he completed his training. Since he has not undergone training at earlier point of time, therefore, his seniority from the date when he joined the duty or from the date of his appointment cannot be fixed.

6. We have given our thoughtful consideration to the entire matter and have perused the pleadings as available on record.

7. We are in agreement with the submission made at the hands of the applicant that the applicant cannot put to disadvantage position while fixing the seniority from a subsequent date then the date of his joining, for the simple reason that there is no denial by the respondents regarding applicant joining in pursuance of appointment. Immediately, he was deputed to attend sport events/athletic championship, therefore, once his services have been availed by respondents by deputing him on sports events of railways being outstanding sport person, then the respondents cannot be allowed to breath hot and cold at the same time by taking his appointment from the year 2007 on the plea that he has not undergone training. It is not denied by the respondents either in the written statement or suggested contrary at the time of arguments that he was ever spared by the department to undergo training. If the order is allowed to

sustain then it will injustice with the applicant because having availed his services, they cannot be allowed to fix his seniority from the later date.

8. Accordingly, we allow the present O.A and quash the impugned orders qua applicant by directing the respondents to fix the seniority of the applicant from the date when he joined the service of the respondent department in terms of Note 1 below para 302. Let needful be done within a period of one month from the date of receipt of a certified copy of the order. No order as to costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 22.11.2017.
`jk'

