



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA. 893 of 2001

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. Shiba Prasad Ghosh, son of late Santosh Kumar Ghosh, residing at 83B, Kaiser Street, Kolkata- 700 009.
2. Hari Shankar Roy, son of late Satyendra Nath Roy, residing at 188/A, Pursree, P.O. Chander-Nagore, District- Hoogly.
3. Karnadhar Koley, son of late Gangadhar Koley Residing at Bhanga Kuthi, G.T. Road, P.O. Rajbati, District- Bardhaman.
4. Radhe Shyam Saha, son of late Rameswar Saha, Residing at 71, New Road, Mandir para, P.O. Birat, Kolkata - 700 051.
5. Swapan Kumar Dey Roy, son of late Khagesh Chandra Dey Roy, residing at Sri Ramkrishna Apartment, 138, Upper B.P. M.P. Sarani, Flat No. 2, P.O. Bhadrakali, District- Hoogly.
6. Tarak Nath Ganguly, son of late Hrishikesh Ganguly, residing at 8/G, U.C. Ghoshal Lane, P.O. Konnagar, District- Hoogly.
7. Raghu Nath Chakraborty, son of late Dwijendra Nath Chakraborty, residing at 30/1/1, M.L.P. Road P.O. bally, District- Howrah.
8. Pradip Kumar Chatterjee, son of late Satyendra Nath Chatterjee, residing at 7/B, Bhaduri para Lane, Chantra, Serampur, District- Hoogly.
9. Ziaur Bahaman, son of late Md. Shafique, residing At T/13/F, Kumedan Bagan Lane, Kolkata- 700 016.

All are working as Traffic Inspector in the office of the Eastern Railway under Respondent no. 4.

.....Applicants.

-versus-

1. Union of India, through the General Manager, Eastern Railway, Fairlie Place, Kolkata- 700 001.
2. General Manager, Eastern Railway, Fairlie Place, Kolkata- 700 001.
3. Chief Personnel Officer, Eastern Railway, Fairlie Place, Kolkata- 700 001.
4. Chief Operations Manager, Eastern Railway, Fairlie Place, Kolkata- 700 001.
5. Sri Manmohan Chakraborty, son of late Manmohan Chakraborty, Traffic Inspector Hd. Qrs. Working in the capacity of Traffic Inspector, Tank Wagon Movement, Eastern Railway, Dist- Hoogly.
6. Sri Rabin Kumar Chatterjee, son of late Sanjit Kumar Chatterjee, working in the capacity of Traffic Inspector/Hd. Qrs., Eastern Railway, Traffic, Planning Section, Fairlie Place, Kolkata- 700 001.
7. Sri Prabir Kumar Bhowmick, son of late Jogendra Lal Bhowmick, residing at Bikram Nagar, Bandel Station Road, Bandel, District- Hoogly, working in the capacity of Traffic Inspector/Hd. Qrs. Eastern Railway, Fairlie Place, Calcutta- 700 001.
8. Sri Ranjit Kumar Mukherjee, son of late Amritlal Mukherjee, residing at Village- Goipur, P.O. Gabar Danga, Dist- 24 PGS(N), working in the Capacity of Traffic Inspector/Hd. Qrs., Eastern Railway, Fairlie Place, Kolkata- 700 001.



9. Sri Prakash Chandra Ghosh, working in the capacity of Traffic Inspector/Hd. Qrs., Eastern Railway/ Military Movement, Fairlie Place, Kolkata- 700 001.

.....Respondents.

For the Applicant : Mr. P.C. Das, Counsel

For the Respondents : Mr. S. K. Das, Counsel

Heard on 28.08.2018

Date of Order: **04.09.2018**

ORDER

Per Ms. Bidisha Banerjee, Judicial Member:

We noticed that the application was dismissed earlier by this Tribunal on 09.11.2006 and on remand it needs to be heard afresh. The case of the applicants in a nutshell is that :

They figured in a select list of 18.12.1990 as contained in Annexure A-1 to the O.A. on being found suitable for the post of TI/HQ(Line Group) in scale of Rs. 1400-2300/-(R. P.), held on 08.07.1990 and 14.07.1990 (Written Test) and 31.08.1990 and 07.09.1990 (viva-voce). The select list is as under:

Sl. No.	Name	Desig	Division
1.	Sri P. N. Roy	TI/HQ	DHN
2.	Sri S. C. Gangopadhyay	-do-	-do-
3.	Sri S.N. Sarkar	SM	ASN
4.	Sri S.K. Roy	TI/HQ	DHN
5.	Sri S. R. Banerjee	SM	ASN
6.	Sri Samit Roy	TI/HQ	ASN

7.	Sri S. P. Ghosh	-do-	SDAH
8.	Sri S. K. Chattopdhyay	-do-	SDAH
9.	Sri Ashok Kr. Biswas	-do-	SDAH
10.	Sri Biswanath Ghosh	TI/ASM	ASN
11.	Sri M. M. Banerjee	TI/HQ	SDAH
12.	Sri P.S. Sahu	-do-	DHN
13.	Sri H. S. Roy	-do-	DHN
14.	Sri K. D. Koley	ASM/HWH	HWH
15.	Sri S. K. Dey Roy	ASM	HWH
16.	Sri T. N. Ganguly	TI/HQ	DHN
17.	Sri Z. Rahaman	ASM/DHN	DHN
18.	Sri R. N. Chakraborty	TI/HQ	HWH
19.	Sri P. K. Chatterjee	TI/HQ	HWH

From the said list, it is evident that the applicants figured at Srl. No. 4,7,12, 13, 14, 15, 16, 17, 18 and 19. The panel was provisionally prepared subject to dismissal of following Civil Miscellaneous Petition No. 1401/1404 (M) of 1979 and Writ Petition (Civil) No. 1041/1044 of 1979 on being approved by the competent authority on 04.12.1990.

The grievance of the applicants are that although they qualified for the promotion to TI/HQ vide order dated 27.07.2001, they were once again called for selection for formation of panel TI (M) in the scale of Rs. 6500-10500/- (RSRP). Therefore, instead of appearing they chose to prefer this O.A. seeking reliefs as under:

"8(a) An order directing the respondents, their agents, subordinates and successors to forbear from giving effect or further effect to the impugned promotional orders in Annexure "N"" and the seniority list dated 3.10.97 (with annexure) dated 25.9.97 and the impugned orders dated 4.6.2001 and 6.6.2001 in Annexure "Q" and "S" respectively and the impugned Memo o. E. 834/O/T&HO/optg. /Avenue dated 6.6.2001 and the impugned memo dated 4.7.2001 in Annexure "U" and "V" respectively;

(b) An order directing the respondents, their agents, subordinates and successors to extend the promotional benefit to the applicants on the basis of the panel published on 18.12.90 in Annexure "A" and the panel published on 4.11.92 in Annexure "G" and to extend the promotional benefits strictly as per the circular of Railway Board dated 5.2.3 in Annexure "H" w.e.f. 1.3.93 with retrospective effect;

(c) An order directing the respondents, their agents, subordinates and successors by quashing the impugned seniority lists dated 14.11.1996 and 3.10.97 in Annexure "N" and "P" respectively and the impugned orders dated 4.6.2001 and 6.6.2001 in Annexure "Q" and "S" respectively and the impugned Memo No. E. 834/O/T&HQ/Optd/Avenue dated 6.6.2001 and the impugned memo dated 4.7.2001 in Annexure "U" and "V" respectively and by granting the other reliefs as prayed for hereinabove;

(d) To grant leave under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 to the applicants to prefer the instant application jointly since the cause of action and the reliefs, as prayed for, are identical in nature;

(e) To give promotion of all the applicants who were empanelled as TI(M) before 1.3.93 through positive acts of selection upto the grade of Rs. 2305-3700/- (T-150/-1,500/-) with retrospective effect w.e.f. 1.3.93 as there were no vacancies in the respondent no. 3 had promoted their joining in the same grade;

(f) An order directing the respondents, their agents, subordinates and successors to forbear from giving effect or further effect to the impugned memo dated 27.7.2001 being Annexure "W" and from conducting any fresh selection and from preparing any fresh panel;

(g) To pass such other or further order or orders as to the Hon'ble Tribunal may deem fit and proper;"

2. The respondents have claimed that the applicants were not entitled to relief because the TI posts was declared ex-cadre with effect from 01.11.1985 and therefore actual cause of action arose in 1985 due to which the present OA was hopelessly time barred.

3. The respondents have further clarified that the incumbents who held the post of TI had their lien in the parent division/unit. The Railways, vide their letter dated 27.01.1993, ordered restructuring of certain posts and in order to grant benefit of such restructuring TI was en-cadred and the effect of restructuring was accorded in accordance with Railway Board's order dated 27.01.1993. Further that one O.A. 1307 of 1999 came to be filed before the Tribunal for implementation of a decision taken in a PNM Meeting and this Tribunal ordered the respondents to take action as per such decision as contained in the letter dated 17.05.2000. The subject matter of the letter dated 17.05.2000 was as under:

"Reg : Seniority of the cadre of TI Movement of Hd. Qrs.

Sub: PNM Item of B.R. VI

1. After careful examination of the case and consultation of the service records of the staff in question and other documents etc., it is seen that the seniority list prepared earlier basing on the principle of induction to the base grade of Rs. 1400-23200/-(Rs. 5000-8000) was not doing justice to the interest of all the TIs due to the fact that some of them have been inducted in the intermediate grades i.e. in the grade of Rs. 1600-2660/-(Rs. 5500-9000/-) and Rs. 2000-3200/- (Rs. 6500-10500/).
2. In order to ensure natural justice and compliance of extant rules regarding seniority, it is decided that seniority of this cadre be recast on the basis of substantive position of the Inspectors in their respective divisions as on 28.02.93 and this exercise has been done to find out the seniority position on the basis of this principle by obtaining required information from the various divisions and the same is available in tabulation form. It is seen that the same does not involve too many changes in the seniority position and is quite reasonable and according to rules. Therefore, this seniority list is to be adopted for further action in respect of promotion and restructuring.

However, the incumbents who have joined as TI in Hd. Qrs. After 01.03.93 on ad-hoc measures, would be repatriated back to parent units and posts filled up again by calling for options."

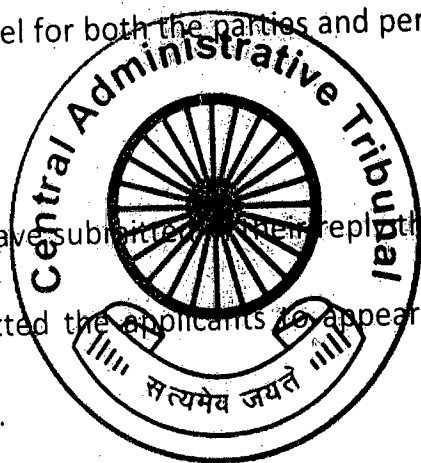
The respondents have averred that upon due consideration in terms of the order, new seniority list was drawn up on 04.06.2001 where the applicants were included.

4. The respondents alleged that none of the applicants represented against the seniority list dated 04.06.2001 and as such, Id. Counsel for respondents would vociferously urge the applicants were estopped from claiming otherwise.

5. We heard Id. Counsel for both the parties and perused the materials placed on record.

6. The respondents have submitted their reply that this Tribunal vide order dated 22.08.2001 permitted the applicants to appear in the suitability test but they chose not to appear.

7. Be that as it may, we noticed that vide the seniority list dated 4.06.2001, seniority was recast but the applicant, Shri S. P. Ghosh with date of working as TI/HQ as 06.06.80 figured below Rattan Chakraborty whose date of working as TI/HQ was 08.01.91. Therefore a junior in terms of date of entry in TI figured above and senior.



8. Since such discrepancy is incomprehensible, we dispose of the O.A with a direction upon the respondent authorities to justify such arrangement and pass appropriate reasoned and speaking order within 3 months with communication to the applicant forthwith. No costs.

Nandita Chatterjee
Member (A)

^{18.10.20}
Bidisha Banerjee
Member(J)

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