

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

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**Misc. Application No.290/00042/2019
in
Original Application No.290/00304/2018**

This, the 27th day of March, 2019

Reserved on 14.03.2019

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CORAM:

**HON'BLE SMT. HINA P. SHAH, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)**

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1. Mukesh Kumar Meena s/o Sh.Nank Ram Meena, aged about 34 years, R/o H.No.73A, Shakti Colony, Ratanada, Jodhpur(Raj.).
2. Manoj Kumar Meena S/o Sh. Sampat Ram Meena aged about 35 years, R/o Qtr. No. L27-G, Old Loco Colony, NWR, Jodhpur (Raj.).
3. Ramotar Meena S/o Sh. UMED Meena aged about 35 years, R/o H.No.14, Shakti Colony, Ratanada, Jodhpur (Raj.)
4. Ram Singh Rathore S/o Sh. Bhawar Singh Rathore aged about 33 years, R/o Qtr. No.2034, Loco Colony, NWR, Merta Road, Dist. Nagour (Raj.)
5. Amar Singh Meena S/o Sh. Narayan Meena aged about 33 years R/o Qtr. No. L 130-C, Old Loco Colony, NWR, Jodhpur (Raj.)
6. Suresh Chand Meena S/o Sh. Jamna Lal Meena aged about 32 years R/o Qtr. No. L193-E, Old Loco Colony, NWR, Jodhpur (Raj.)
7. Sambhoo Lal Meena S/o Sh. Meetha Lal Meena aged about 34 years R/o P.No. 78A, AVENUE Neno Max, Ashapura, Sikargarh, Jodhpur (Raj.)
8. Lalit Kumar S/o Sh. Prem Singh, aged about 38 years R/o H.No.813/2, Ramzani Ka Hatha, Gosala Road, Jodhpur Cantt., Jodhpur (Raj.)

...APPLICANTS

BY ADVOCATE : Mr. S.K. Malik

VERSUS

1. Union of India through the General Manager North Western Railway, Jaipur

2. Senior Divisional Personnel Officer, NWR, Jodhpur Division, Jodhpur (Raj.)
3. Sh. Nathu Ram Jakhad S/o Shri Ram, Loco Pilot Goods C/o SSE, Loco NWR, Jodhpur (Raj.)
4. Ashok Kumar Meghwal S/o Sh. Pooran Mal Meghwal, Loco Pilot Goods C/o SSE, Loco NWR, Jodhpur (Raj.)
5. Munesh Kumar Meena S/o Sh. Ratti Ram Meena, Loco Pilot Goods C/o SSE, Loco NWR, Jodhpur (Raj.)
6. Lokesh Kumar Meena S/o Sh. Ganga Sahay Meena, Loco Pilot Goods C/o SSE, Loco NWR, Jodhpur (Raj.)

RESPONDENTS

BY ADVOCATE : Mr. Salil Trivedi for R/1 & R/2
Mr. Hemant Jain for R/3 to R/6

ORDER

Per Smt. Hina P. Shah, Member (J)

Heard on MA No.42/2019.

2. The applicant filed the present MA under Section 22 (3) of the Administrative Tribunals Act, 1985 for restraining the respondents to make any further promotion in pursuance of order dated 28.12.2018 at Annexure-MA/1 till final decision of the OA.
3. Learned counsel for the applicant submits that the respondents vide office order dated 28.12.2018 issued eligibility list for promotion to the post of Loco Pilot Passenger and accordingly promoted 33 persons. It is the contention of the applicant that in the said order, the name of private respondents who are junior to the applicants have also been shown. Further, the private respondents and the persons who were junior to the applicants were given undue benefit of promotion on the post of ALP which is contrary to the provision of law inasmuch as they

had not completed two years of service on the post of ALP. The said act of the respondents was challenged before this Hon'ble Court in OA No.132/2004 Vijendra Kumar Prajapat & Ors. Vs. UOI & Ors wherein the Hon'ble Court restrained the respondents from making any promotion to the post of Loco Pilot Goods in pursuance to the seniority list dated 07.02.2013 which was under challenge. The respondents thereafter issued revised seniority list at Annexure –A/7 to the OA and the Railway advocate submitted before the Hon'ble Court that applicants have already been granted relief and accordingly the OA was rendered infructuous. He further submits that the seniority list at Annexure-A/5 became final for all intent and purposes. He further submits that the any further promotion were to be given according to said seniority list and the respondents cannot go contrary to the said seniority list and undertaking given before this Hon'ble Court.

4. On the other hand, learned counsel for the respondents No.1 & 2 submits that the respondents are required to fill in the vacancies for Loco Pilot (Passenger) for smooth running of the trains and as such the eligibility list was issued and the eligible persons were further promoted as Loco Pilot (Passenger) for which the competent authority are empowered. Further, it is submitted that that in the matters of seniority, it is a settled preposition of law that in case the applicants succeed in their cause then obviously, they will get everything, but on the other hand, if the promotional process is stopped then the respondents would not be in a position to run the trains effectively and also if in case the OA is dismissed then the loss suffered by the administration cannot be

compensated by the applicants. Therefore, in view of the matter, the Misc. Application preferred by the applicants is liable to be dismissed.

5. Considered the rival submissions made by learned counsel for both sides and looking to the entire facts and circumstances of the case, we are not inclined to restrain the respondents to make any further promotion in pursuance of order dated 28.12.2018 (Annexure-MA/1). However, in the interest justice, we order that the seniority of the applicants shall be subject to the outcome of the OA. Accordingly, MA No.42/2019 is disposed of.

(ARCHANA NIGAM)
MEMBER (A)

(HINA P. SHAH)
MEMBER (J)

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