

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00393/17**

Date of Order: 16/05/2019

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

1. Rajeev Kumar, Son of Late Shyam Babu Singh, Assistant Loco Pilot (Electrical), Under Chief Crue Controller, East Central Railway, Jhajha.
2. Rakesh Shankar, Son of Sri Dilip Kumar Gupta, Assistant Loco Pilot (Electrical), under Chief Crue Controller, East Central Railway, Jhajha.
3. Sanjeev Kumar, Son of Sri Raj Kumar Prasad, Assistant Loco Pilot (Electrical), under Chief Crue Controller, East Central Railway, Jhajha.
4. Rajnish Kumar, Son of Late Vishwanath Bhatt, Assistant Loco Pilot (Electrical), Under Chief Crue Controller, East Central Railway, Jhajha.

.... Applicants.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, PO- Hajipur, PS- Dighi Kalan, District- Vaishali (Bihar)- 844101.
2. The General Manager (Personnel), East Central Railway, Hajipur, PO- Hajipur, PS- Digha Kalan, District- Vaishali (Bihar)- 844101.
3. The Chief Electrical Engineer, East Central Railway, Hajipur, PO- Hajipur, PS- Digha Kalan, District- Vaishali (Bihar).
4. The Divisional Railway manager, East Central Railway, Danapur- 801503.
5. The Senior Divisional Personnel Officer, East Central Railway, Danapur- 801503.
6. The Senior Divisional Electrical Engineer, East Central Railway, Danapur- 801503.

.... Respondents.

By Advocate: - Mr. Ram Kinker Choubey.

**O R D E R
[ORAL]**

Per Dinesh Sharma, A.M:- The instant OA is against the order dated 22.09.2016 issued by respondent no. 5 under which the seniority of the

applicants and other co-employees in the cadre of Assistant Loco Pilot at Danapur Division has been fixed w.e.f. 11.01.2017, (i.e. from the date they reported for joining after sparing from EC Railway, Dhanbad Division), instead of from the date of their (original) joining in Danapur Division (i.e. on 13.01.2014, 10.03.2014, 07.04.2014 and 17.02.2014 respectively after their sparing from Central Railway, SEC Railway, WC Railway and SC Railway respectively). The applicants' claim is based on the order of this Tribunal in OA/050/145/2015 (which was itself based on earlier orders passed by this Tribunal in the case of other similarly co-employees in OA/051/00136/2014 and OA/051/00207/2014) where there was a specific direction upon the respondents to fix applicants at bottom seniority assuming as if they had joined in due date soon after their relief from the respective parent Division (from which they had sought transfer on request).

2. The respondents have denied the claim of the applicant in the written statement and have alleged that their seniority has been fixed on the date of their reporting in Danapur Division which is as per the rules/guidelines contained in IREM Vol. I para-312 (enclosed as Annexure R/1).

3. We have gone through the pleadings and heard the arguments of both the parties. This Tribunal had very clearly directed in the OAs cited above that the seniority in case of these employees should be fixed as per the joining date soon after their relief from their respective parent Division (from which had had originally requested their transfer) and not on the basis of the date of their final joining at the place of their original choice

subsequent to the orders passed by this Tribunal. Though the Railways have complied with the orders of this Tribunal by posting them at their place of original choice they have still not complied with the clear instruction about keeping their seniority assuming as if they had joined at this place (Danapur) on the date when they joined after getting relieved from the place they were originally transferred from (on inter-railway transfer). There can be no doubt about the interpretation of this Tribunal's earlier orders. The observation regarding seniority was specifically made for the purpose of avoiding any dispute in this regard. If the Department had any objection against this observation, due to its not being in line with their rules, they should have questioned this decision of this Tribunal in an appropriate higher judicial forum. Since they have not done so, their action, in giving bottom seniority to the applicants at Danapur Division on the basis of their date of subsequent joining at Danapur Division, is patently wrong. The respondents are, therefore, directed to fully comply with this Tribunal's earlier orders (in OAs mentioned in Para 1 of this decision) and consider the seniority of the applicants on the basis of the dates on which they first reported in Danapur Division after their transfer on request. The orders revising the seniority list on this basis should be passed by the respondents within two months from the date of receipt of this order. The OA is disposed of accordingly. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member