

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00153/15**  
**With**  
**OA/050/00400/15**

Reserved on: 01.04.2019  
Pronounced on: 03.04.2019

**C O R A M**  
**HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER**  
**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

**I. OA/050/00153/2015**

1. S.K. Singh, son of Sri Jang Narayan Singh.
2. A.K. Verma, son of Sri Ayodhya Prasad
3. Ranjeet Kumar, son of Late Mahendra Mistry.
4. Vijay Kumar, Son of Sri Jang Bahadur Prasad Verma.
5. Sanjay Prasad, son of Late Mohan Prasad
6. Vishnu Shankar Upadhyay son of Sri V. Upadhyay.
7. Yashwant Pratap Singh, son of late Nand Kishore Singh.
8. Alakh Niranjana Kumar, son of Late Bishnudeo Prasad.
9. Bhupendra Kumar Rai, son of Late Yogendra prasad.
10. Gopal Kumar, son of Late Sri Niwas Sharma.
11. Dilip Kumar, son of Late Brahmdeo Narayan Singh.
12. Rakesh Ranjan Sinha, son of Late Diwakar Prasad Sinha.

.... Applicants.

By Advocate: - Mr. A.R. Pandey with Mr. P.R. Singh

-Versus-

1. The Union of India, through the General Manager, East Central Railway, Hazipur, Bihar.
2. The General Manager (Personnel), EC Railway, Hazipur.
3. The C.S.T.E, EC Railway, Hazipur.
4. The Divisional Railway Manager, Danapur Division, Danapur.
5. The Senior DPO, E.C. Railway, Danapur.
6. The Senior D.S.T.E, E.C. Railway, Danapur.
7. Mukesh Kumar, son of presently working as J.E. Signal under Project Hajipur.
8. Dilip Kumar, son of..., presently working as SIM-I under project Hajipur.
9. Maha Mirtunjay Kumar, son of Late S.N. Lal, presently working as M.C.M. under Project Hajipur.
10. C.B. Prasad, son of presently working as SIM-I at Bakhtiyarpur Station.

11. Badari Prasad Bhagat, son of.., presently working as S.I.M.- II at Construction/Danapur.
12. Anil Kumar, son of Sri Ram Prasad Choudhary presently working as SIM-I at Construction/Danapur.
13. Sandeep Kumar, son of..., presently working as SIM-I at Construction/Danapur.
14. Surendra Prasad Singh, son of..., presently working as SIM -I at Construction/Danapur.
15. Ravi Kumar, son of Late Sanichar Choudhary, presently working as SIM-I at Construction/Danapue.
16. Sri Kant Sharma, son of Sri Rajendra Sharma, presently working as SIM-I at Construction/Danapur.
17. Sanjay Kumar Singh, son of Sri K.P. Yadav, presently working as SIM-I at Construction/Danapur.
18. Sanjay Kumar, son of Bishnudeo Prasad, presently working as SIM-I at Construction/Danapur.
19. Vikash Chandra, son of .., presently working as SIM-II under Project, Hajipur.

.... Respondents.

By Advocate: - Mr. S.K. Griyaghey

## II. OA/050/00400/2015

Sujit Kumar, son of Late Baldeo Gope, resident of Mahendra Gulabi Ghat, PO- Mahendru, PS- Sultanganj, District- Patna.

.... Applicant.

By Advocate: - Mr. A.R. Pandey with Mr. P.R. Singh

-Versus-

1. The Union of India, through the General Manager, East Central Railway, Hazipur, Bihar.
2. The General Manager (Personnel), EC Railway, Hazipur.
3. The C.S.T.E, EC Railway, Hazipur.
4. The Divisional Railway Manager, Danapur Division, Danapur.
5. The Senior DPO, E.C. Railway, Danapur.
6. The Senior D.S.T.E, E.C. Railway, Danapur.
7. Mukesh Kumar, son of presently working as J.E. Signal under Project Hajipur.
8. Dilip Kumar, son of..., presently working as SIM-I under project Hajipur.
9. Maha Mirtunjay Kumar, son of Late S.N. Lal, presently working as M.C.M. under Project, Hajipur.
10. C.B. Prasad, son of presently working as SIM-I at Bakhtiyarpur Station.

11. Badari Prasad Bhagat, presently working as S.I.M.- II at Construction/Danapur.
12. Anil Kumar, son of Sri Ram Prasad Choudhary presently working as SIM-I at Construction/Danapur.
13. Sandeep Kumar, presently working as SIM-I at Construction/Danapur.
14. Surendra Prasad Singh, presently working as SIM -I at Construction/Danapur.
15. Ravi Kumar, son of Late Sanichar Choudhary, presently working as SIM-I at Construction/Danapur.
16. Sri Kant Sharma, son of Sri Rajendra Sharma, presently working as SIM-I at Construction/Danapur.
17. Sanjay Kumar Singh, son of Sri K.P. Yadav, presently working as SIM-I at Construction/Danapur.
18. Sanjay Kumar, son of Bishnudeo Prasad, presently working as SIM-I at Construction/Danapur.
19. Vikash Chandra, presently working as SIM-II under Project, Hajipur.
20. Bhupendra Kumar Rai, presently working as S.M.-I at Construction/Danapur.
21. Ashraf Ali, presently working as S.M.-I, Jhajha.
22. Jagdeo Kumar, presently working as S.M.-I, Kiul.
23. Rajnikant Sinha, presently working as S.M.-I at Construction/Danapur.
24. Suresh Choudhary, presently working as S.M.-I, Nawada.
25. Munsri Prasad Singh, presently working as S.M.-I, Buxar.

.... Respondents.

By Advocate: - Mr. K.P. Narayan

### **ORDER**

**Per Dinesh Sharma, A.M:-** Since the issue involved in both the OAs mentioned above is the same, these are being disposed of by the following common order.

2. The applicants in both these OAs have filed their application against the order dated 20.09.2014 (impugned order contained in Annexure A/8) which, according to the applicants, though purportedly issued following this Tribunal's orders dated 29.04.2014 in OA 256/2008, is in fact in complete violation of the said order of this Tribunal. The OAs mention the facts and

the issues that were raised by the applicants in OA 256/2008 and claim that the decision to put the applicants below the private respondents is wrong.

3. The respondents, in their written statement, have denied the claim of the applicants. According to them, the private respondents had joined the Danapur Division at the time of the creation of the new zone (East Central Railway), on option basis; while the applicants came to Danapur Division, on inter railway/division transfer, at their own request. Under Rule 311 and 312 of the IREM Chapter III, those who come on transfer in the interest of administration, are given seniority on the basis of the date of promotion/the date of appointment to the grade as the case may be (para 311 of IREM). Those who come on transfer on request are placed at the bottom in seniority to the existing confirmed temporary and officiating railway servants in the relevant grade (para 312 of IREM). Following these two rules, the private respondents who are posted to Danapur Division due to administrative reason happened to stand higher in seniority in comparison with the applicants who came to this division on their own request.

4. The applicants, in their rejoinder, reiterated their case and alleged malafides on the part of the respondents.

5. We have gone through the pleadings and heard the learned counsels for the parties. The applicants have raised more or less the same grounds, in support of their claim for keeping them above the private respondents, as were raised in the earlier OA 256/2008. This Tribunal's decision in that OA had discussed all these matters in detail. While

commenting on the mess created because of taking persons in the new Division without any sanctioned posts and not reverting them back when they were not required, the Tribunal finally came to the conclusion not to “unsettle a settled position as the same will create more problems”. This Tribunal also concluded in para-12 of that order that “once the lien has been fixed as back as in 2005 and which has not been challenged fixation of seniority as per rules can also not be challenged now. However, observation in the letter of GM(P) dated 21.03.2007 appears to be a solution.” It was also mentioned in the same paragraph that “We clarify that this observation is only by way of an example and not a direction. Policy decision to manage the cadre and resolve administrative issues is within the realm of the executive”. Finally, the Tribunal gave a direction to the respondents no. 1 and 2 in that case “to give clear instructions on the reference made to them by the Danapur Division and also instructions as to how the cadre should be managed in future causing least grievance amongst the employees.”

6. We find that the GM(P) has given clear instructions to the Senior Divisional Personnel Officer vide their letter dated 17.09.2014 to fix the seniority following paragraph-311 and 312 of IREM Vol. I. This letter also mentions about continuance of staff in Construction organization and calculation of promotional vacancies including the work charge post of Construction organization which has ensured that the whole of the staff of Danapur has been benefited. This prima facie meets the suggestions about administrative action made in this Tribunal’s earlier order.

7. The applicants have cited some individual cases and have again questioned putting of private respondents' above them on the same grounds as were raised before. They have alleged that the private respondents have also come to Danapur Division on request only. They have also claimed that even the applicants had come initially on option basis and therefore should not be treated differently from the private respondents. Most of these issues were raised in the earlier OA 256/2008 also and the Tribunal came to the conclusion that fixation of seniority as per rules cannot be challenged on these grounds. Any new grounds to support their old claim about seniority, which existed even at the time the matter was considered earlier by this Tribunal, cannot be raised now, as that would be barred by the principle of res-judicata.

8. As discussed above, the OAs lack merit and are, therefore, dismissed.

No order as to costs.

**[ Dinesh Sharma ]**  
**Administrative Member**  
**Srk.**

**[Jayesh V. Bhairavia]**  
**Judicial Member**