

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00187/2015

Date of Order: 29.01.2019

C O R A M

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

1. Mohan Sah, S/o Late Ram Saroop Sah, working as Tech-I, under the Sr. DME/E. Rly./Jamalpur, residing in Rly Qr. No. 243 'C', Loco Colony, Jamalpur, District- Mungher(Bihar).
2. Deepak Kumar, S/o Late Parmeshwar Prasad, working as Tech-I under the Sr. DME/Diesel Shed, Eastern Railway, Jamalpur, Jamalpur, resident of Mohalla- Charasia Path near New Shiv Mandir, PO & PS- Jamalpur, District- Mungher (Bihar).

..... Applicants.

- By Advocate: - Mr. A.N. Jha

-Versus-

1. The Union of India represented through the General Manager, Eastern Railway, Fairlie Palace, 17, Netaji Subhash Road, Kolkata-1.
2. The General Manager (Personnel), Eastern Railway, Fairlie Palace, 17, Netaji Subhash Road, Kolkata-1 (W.B.).
3. The Divisional Railway Manager, Eastern Railway, Malda Town (W.B.).
4. Sr. Divisional Personnel Officer, Eastern Railway, Malda Town, Malda (W.B.).
5. Sr. Divisional Mechanical Engineer (Diesel), Eastern Railway, Jamalpur, Mungher (Bihar).

..... Respondents.

- By Advocate(s): - Mr. S.K. Ravi.

O R D E R
[ORAL]

Per Dinesh Sharma, A.M.:- The case of the applicants is that there is a mistake in the seniority list dated 31.10.2012. The applicants were initially appointed as Khalasi on 17.04.1980 and 12.05.1986 respectively and were promoted as Khalasi Helper from 01.02.1991, further promoted as Diesel Mechanic Grade-III from 29.03.1996 and further promoted as Tech.-II on

19.05.2000. However, some juniors, namely, Shri Surjdeo Sharma and Others were promoted to Tech-III on 05.11.2001, Tech-II on 08.07.2003 and on restructuring promoted as Tech-I w.e.f. 01.11.2003. The above-mentioned juniors were always juniors to the applicants. Though the applicants have filed representation against this injustice since 2014 onwards no action has been taken by the respondents and therefore this OA.

3. The respondents, in their written statement, have denied the claim of the applicants. They have claimed that this OA is bad due to non-joinder of parties (the alleged juniors). It is also barred by limitation since the cause of action arose in the year 2012 when a revised seniority list was published following a decision of this Tribunal in a case filed by alleged juniors in this case, along with some others (OA 473/1996) which was decided in their favour. Though both the applicants were parties to that OA, they did not further agitate on this matter at that time.

4. We have heard the parties and gone through the pleadings. The respondents have very clearly explained how the applicants came to be placed below Shri Surj Deo Sharma & Others. We have gone through the decision of this Tribunal in OA 473/1996 and found that this Tribunal had decided that case in favour of applicants therein (Surjdeo Sharma & 17 Ors.) because it found the private respondents no. 5 to 39 (which included applicants in this OA) “ranked junior in the joint seniority list”. If the applicants were aggrieved by that order, they should have agitated against it in a higher judicial forum. Since they did not do so they cannot do so now

by seeking a relief from this Tribunal which will be contradictory to this Tribunal's earlier order, and that too without even joining the affected persons as parties. The fact that the applicants have not even disclosed about this earlier OA (473/1996) in the present OA, also goes against them as it amounts to not coming up with "clean hands". Their not filing any objection against the revised seniority list published in 2012 (Annexure R/6), as alleged in the W.S. filed by the respondents (and not denied by the applicant) also makes their claim weak, unsustainable and barred by period of limitation. For all these reasons, the OA is dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member