

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00542/2016**

Date of Order: 02.08.2019

**C O R A M**

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

1. Kamlesh Kumar Sinha, Sr. A.L.P. (Dsl.), son of Late Ramesh Yadav at Diesel Lobby, Barauni.
2. Gautam Kumar, Sr. A.P. (Dsl.), son of Sri Ram Iqbal Singh at Diesel Lobby, Barauni.
3. Ranjan Kumar, Sr. A.L.P. (Dsl.), son of Sri Munilal Sah at Diesel Lobby, Muzaffarpur.
4. Ramesh Kumar Singh, Sr. A.L.P. (Dsl.), son of Sri Lal Mohan Singh at Diesel Lobby, Sonpur.

.... Applicants.

By Advocate: - Mr. Abdul Hakim

-Versus-

1. The Union of India through the General Manager, EC Railway, Hajipur, At and PO-Hajipur, District- Vaishali.
2. The Divisional Railway Manager, Sonpur Division, At and P.O.- Sonpur.
3. The Sr. Divisional Personnel Officer, ECR, Sonpur.
4. The Divisional Railway Manager (Personnel), Sonpur Division, At and P.O.- Sonpur.

.... Respondents.

By Advocate: - Mr. Mukundjee, Sr. Panel Counsel  
Mr. Bindhyachal Rai

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

**Per Dinesh Sharma, A.M:-** The case of the applicants, in brief, is that they have come on mutual transfer from other divisions to Sonpur Railway Division and the respondents have fixed their seniority in a wrong way by order dated 26.02.2016. They have alleged that though all of them came to

this Division on reversion (while getting Grade Pay Rs. 2400/-) as Assistant Loco Pilots, in the Grade Pay of Rs. 1900/-, and were later promoted as Senior Assistant Loco Pilots on various dates in the year 2015 (and 2013 in case of applicant no. 4). They have been assigned a lower position in seniority than those who joined duty in Sonpur Division as Assistant Loco Pilot much after the applicants. The applicants are appointees of the year 2007-08 while those who joined in Sonpur Division in 2010 and were promoted as Senior Assistant Loco Pilots in the year 2012 are positioned higher than the applicants. According to the applicants this is in violation of the conditions about assigning of seniority on transfer on mutual basis (Rule 230 of Chapter 2 of IREC Vo. I) according to which the seniority on mutual transfer should be based on the principle that the junior (amongst the exchanged employees) will be allowed to retain his former seniority and the senior of the two will be given the place of seniority vacated by the other person.

2. The respondents have denied the claim of the applicant. They have alleged that the applicants came on their own will by accepting reversion to Grade Pay 1900 and therefore their seniority had to be assigned only with respect to those who were in that Grade Pay in Sonpur Division. The persons who had been promoted in the Sonpur Division before the applicants joining there could not be ranked junior to the applicants even though they were appointed in the year 2010. These persons were promoted on 09.07.2012 which was before the dates of applicants' joining in the Sonpur Division. Since the applicants came to Sonpur Division after

09.07.2012 their demand to promote them in Grade Pay 4200 with those who were promoted in this Division on 09.07.2012 is not justified. The respondents have already issued a corrigendum to correct the seniority of applicant no. 4 (since he was promoted earlier) and he replaced a person who was junior to him. The applicants have already been informed of the rule position in this regard while disposing of their representations against the seniority list.

3. The applicants filed a rejoinder in which they have reiterated their claim and also filed an MA to amend their OA to include prayer for quashing the orders passed on their representations.

4. In a further reply to the rejoinder the respondents also reiterated their claim about their inability to give the applicants seniority about those who were promoted in the Sonpur Division as Senior Assistant Loco Pilot before the applicants coming on mutual transfer to this Division.

5. We have gone through the pleadings and heard the arguments of learned counsels of both the parties. During the course of hearing the learned counsel for the applicant was specifically queried by this Tribunal about whether the claim of the applicants is about their protection of pay on reversion or about inter-se seniority. The learned counsel made it clear that the issue raised in this OA is only about seniority. We have gone through the relevant rules about determination of inter-se seniority which are quoted by the applicants in their OA at Annexure 3 series (pages 28-29).

These rules are reproduced below:-

“Para 310. Mutual Exchange – Railway Servants transferred on mutual exchange from one cadre of a division, office or railway to the corresponding cadre in another division, office or railway shall their seniority on the basis of the date of promotion to the grade or take the seniority of the railway servants with whom they have exchanged whichever of the two may be lower.”

“312. Transfer on request- The seniority of railway servants transferred at their own request from one railway to another should be allotted below that of the existing confirmed, temporary and officiating railway servants in the relevant grade in the promotion group in the new establishment irrespective of the date of confirmation or length of officiating or temporary service of the transferred railway servants.

Note:- (i) This applies also to cases of transfer on request from one cadre/division to another cadre/division on the same railway.

[Rly. Bd. No. E(NG)- I-85 SR 6/14 of 21-1-1986]

(ii) The expression “relevant grade” applies to grade where there is an element of direct recruitment. Transfers on request from Railway employees working in such grades may be accepted in such grades. No such transfers should be allowed in the intermediates grades in which all the posts are filled entirely by promotion of staff from the lower grade(s) and there is no element of direct recruitment.

[No. E(NG) I-69 SR 6/15, dated 24-6-1969]

**Para 229 & 230 of IREC Vo. I**

“ 229. Transfer on request- Transfers ordered in the interest of employees shall be within the same seniority group, or different group or a mutual exchange. Such transfers are within the same seniority group under the same railway the seniority is not affected but if the transfers are inter divisional or outside the seniority group, the railway ministry’s decision below rule 226 for inter railway transfers shall apply.

Railway Minsitry’s decision :- requests from railway servants in Groups C & D for transfer from one railway to another on grounds of special cases of hardships may be considered favourably by the railway administration. Such staff transferred at their request from one railway to another shall be placed below all existing confirmed and officiating staff in the relevant

grade in the promotion group in the new establishment, irrespective of date of confirmation or length of officiating service of the transferred employees.”

230. Transfer on mutual exchange – In case of mutual exchange, the senior or the two employees will be given the place of seniority vacated by the other person. The junior will be allowed to retain his former seniority and shall be fitted into the seniority below the persons having the same seniority.”

6. A plain reading of these rules makes it clear that the seniority even on a transfer on mutual exchange, is by fitting into the seniority below the persons having the same seniority. Since the mutual transfers are also on request, the rule clearly mentions the requesting person to be placed below all existing confirmed and officiating staff in the relevant grade. This relevant grade will be the grade of the person who is junior in case of transfer on mutual exchange. Since there is no dispute about the applicants having accepted to come on such mutual transfer in the lower grade, even though they were given higher grade before they were transferred, the applicants cannot raise the issue of the higher grade achieved by them in their original place and their seniority can be determined only within the persons who were in the relevant grade (in this case having Grade Pay of 1900) in the receiving establishment. We, therefore, see no merit in the applicants’ claim. The OA is, therefore, dismissed.

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

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