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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.2342/2003

New Delhi this the 9th August, 2005

**HON'BLE SHRI SHANKER RAJU, MEMBER (J)
HON'BLE SHRI S.A.SINGH, MEMBER (A)**

1. Shri Chander Kumar
S/o late Shri Sukh Dayal
Working as Sr. Clerk
Under CAO (C), Kashmere Gate
Delhi.
2. Shri Charanjit Singh
S/o late Shri Chaman Lal
Working as Sr. Clerk
Under Dy. Chief Engineer (C)
N.Rly, SE Road, New Delhi.
(By Advocate: Shri K.K.Patel)

...Applicants

Versus

Union of India through:

1. The General Manager,
Northern Railway
Baroda House,
New Delhi-110001.
2. Deputy Chief Personnel Officer/MPP
Headquarters office
Baroda House,
New Delhi.
3. Divisional Railway Manager,
Northern Railway
State Entry Road,
New Delhi.
4. Shri Jhelum Singh
S/o Sh.Pritam Singh
Working as Office Superintendent Grade-II
In the DRM's office
Northern Railway
Under Divisional Superintending Engineer-II
New Delhi.

...Respondents.

By Advocate: Shri R.C.Malhotra for respondent nos. 1 to 3
Shri M.S.Saini, for respondent no.4).

ORDER

By Shri S.A.Singh, Member (A)

Applicant No.1 and No 2 were regularly appointed in Group 'D' in the
Engineering Department, Construction Organisation on 27.02.1970 and 25.02.1970
respectively. Both the applicants are aggrieved by the respondents order dated

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(9)

29/8/2003 where their representation for refixation of pay and seniority vis-à-vis one of Shri Jhelum Singh (Respondent No.4) was rejected.

2. The applicants are seeking quashing of the impugned order dated 29.08.2003 and seeking assigning seniority from the date their junior Shri Jhelum Singh (Respondent No.4) was promoted as MCC in the grade of Rs. 950-1500 along with all consequential benefits.

3. It is the contention of the applicants that they became regular employees earlier than the Respondent No.4 in the Engineering Department because as respondent No.4 was screened latter. They claim that Respondent No.4 was screened in the screening held on 15.6.1972 to 17.6.1972 and the result declared in August 1972. Respondent No.4 is thus junior to the applicants, because they became regular employee in Group 'D' on 27.02.1972 and 25.02.1970 respectively.

4. The applicants also pleaded that they were promoted on adhoc basis against a clear vacancy as Stock Issuer /Material Checking Clerk (MCC) on 24.4.1970 and 07.4.1970 respectively. Both the applicants appealed to the Divisional Personnel Officer when they were not called for the selection and written suitability test for the regular post of MCC. They were asked to keep themselves ready for the suitability tests vide order-dated 18.10.1975. However, both the applicants were not called for selection for the suitability test even though they were eligible. The suitability test for the post of MCC was held in 1975 and the result was declared in 1976. In the said selection, Respondent No.4 though junior to the applicants was called and found suitable.

5. The respondents have contested the averment of the applicants. The main argument is summarised in the impugned order, which is reproduced below:

“That your contention is that in the year 1975 Selection for MCC was held but you were not called for selection and one Shri Jhelum Singh (who is presently OS) was called and your name should be appropriately interpolated with respect to Shri Jhelum Singh.

It is seen from records that Sh. Jhelum Singh was appointed as P.Way Khallasi on 15.2.70 and confirmed such on 15.2.69 while you were appointed as Gangman on 27.2.70. Hence you were not

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(3)

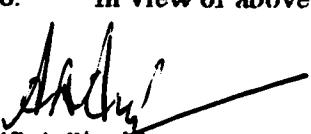
senior to Sh. Jhelum Singh and therefore proforma promotion request w.r.t. Shri Jhelum Singh cannot be considered."

The respondents have also stated that the averment of the applicants that they were given adhoc promotion to the post of Store Issuer/Material Checking Clerk against clear vacancies is incorrect as there are no clear vacancies in the constructions organisation, which is a work charged establishment. The question of applicants' promotion on adhoc basis against clear vacancies in construction organisation, therefore, does not arise.

6. The respondents pointed out that the Respondent No.4 was erroneously called for screening held on 15.6.1972 to 17.6.1972 because he had already been confirmed on 15.2.1969, as is apparent from the Service Book. Therefore, the applicants have no case and the OA should be dismissed.

7. We have heard the counsel for the parties and gone through the documents placed on record. We find that the short question is the date from which Respondent No.4 was regularly appointed. For this purpose, we called for the service book and find that the Respondent No.4 was first appointed on 15.2.1968 in Jind Junction as Permanent Way Khalasi and AEN Jind confirmed him on the same post on 15.2.1969. From the Service Book, it is, therefore, clear that Shri Jhelum Singh (Respondent No.4) was confirmed earlier than the applicants. Appearing in the screening held on 15.06.1972 to 17.06.1972 does not change this fact. He should not have been asked to appear in the screening on 15.06.1972 to 17.06.1972. The respondents have admitted that respondent No 4 had been called for the screening by mistake, as he had already been confirmed on 15.2.1969.

8. In view of above, the OA being without merit stands dismissed. No costs.


(S.A. Singh)
Member (A)


(Shanker Raju)
Member (J)

/kdr/