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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.3114/2003

This the 31st day of May, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Nand Bihari Mall S/O Billar Mall,
Section Engineer (Elect.),
Northern Railway, Delhi Sarai Rohilla,
Delhi. R/O L-22, Railway Quarters,
Hamilton Road, Delhi.
2. Dhirender Vikram Singh S/O Prakash Narayan Singh,
Section Engineer (Elct.),
Northern Railway, Delhi Sarai Rohilla,
Delhi. R/O T-60, Railway Colony,
Sarai Phoos, Tis Hazari,
Delhi-110054. Applicants

(By G.D.Bhandari, Advocate)

Versus

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, State Entry Road,
New Delhi.
3. Divisional Railway Manager,
North-Western Railway,
Bikaner (Rajasthan).
4. Shri Arvind Kumar Jain,
Sr. Section Engineer/Const.,
Kashmere Gate, N.Railway,
Delhi.
5. Shri Harpal Singh S/O Hira Singh,
Sr. Section Engineer,
Northern Railway.
6. Shri Sukhpal,
Sr. Section Engineer,
Northern Railway.

V.D.

7. Shri Kasi Ram S/O Vasudev,
Section Engineer/PS, N.Rly.,
Ghaziabad.
8. Shri Chandra Pal Singh S/O Ram Bhool,
Section Engineer/C-IV,
Northern Railway,
New Delhi.
9. Shri Rakesh Sahai S/O Gopal Sahai,
Section Engineer, Northern Railway,
Baroda House, New Delhi.
10. Shri Ajay Kumar Patri S/O Ramji Lal,
Section Engineer/TL,
Northern Railway, New Delhi.
11. Shri M.S.Khanna,
Section Engineer/N.Rly.,
Baroda House, New Delhi.
12. Shri Rakesh Kumar Sharma,
Section Engineer,
Northern Railway,
New Delhi.
13. Shri N.K.Sachdeva,
Section Engineer/SP,
Northern Railway,
New Delhi.
14. Shri Lalit Kumar S/O Durga Prasad,
Section Engineer, Northern Railway,
Baroda House, New Delhi.
15. Shri Sunil Kumar Sawhney S/O Netra Prakash,
Section Engineer/ACC,
Northern Railway, New Delhi.
16. Shri Daulat RamS/O Kewal Singh,
Section Engineer, Railway Board,
Rail Bhawan, New Delhi.
17. Shri D.C.Singh,
Section Engineer/Chg.,
Northern Railway,
Hazrat Nizamuddin,
New Delhi.
18. Shri Nirmal Kumar S/O Dal Dal Chand,
Section Engineer/ACC,
Northern Railway, New Delhi.
19. Shri Yatinder Kumar S/O Budhar Singh,
Section Engineer/PS/Spl.,
Northern Railway.



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20. Shri Vijay Kumar Gandhi S/O Ram Chander,
Section Engineer/PS, Northern Railway,
Tughlakabad, New Delhi.
21. Mohd. Quasim S/O Mushtaq Ahmad,
Section Engineer, Northern Railway,
Meerut City (UP).
22. Mohd. Aslam S/O Mohd Hasan,
Section Engineer/STB,
Northern Railway, New Delhi.
23. Shri Raj Kumar S/O Rishal Singh,
Section Engineer, Northern Railway.
24. Shri Mahabir Singh S/O Jabar Singh,
Section Engineer/STB,
Northern Railway, New Delhi.
25. Shri Charan Singh S/O Chhidda Singh,
Section Engineer, N.Rly.,
Daya Basti, Delhi.
26. Shri Rohtash Singh S/O Shri Ram,
Section Engineer/PS,
Northern Railway, Thomson Road,
New Delhi.
27. Shri Anil Kumar S/O Kishan Chand,
Section Engineer/Chg.,
Northern Railway,
Hazrat Nizamuddin, New Delhi.
28. Shri Laxman Singh S/O K.S.Nakotia,
Section Engineer, Northern Railway,
Shakur Basti, Delhi.
29. Shri Amarjit Singh S/O Malkit Singh,
Section Engineer/STB,
Northern Railway, New Delhi.
30. Shri Harender Kumar,
Section Engineer/PS,
Northern Railway, New Delhi.
31. Shri P.K.Tomar,
Section Engineer/SP,
Northern Railway, Delhi.
32. Shri Kul Deep Singh S/O Gurbachan Singh,
Section Engineer/TL,
Northern Railway, Delhi.
33. Shri Jai Prakash S/O Saktoo Singh,
Section Engineer/STB,
Northern Railway, New Delhi.

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34. Shri Naresh Chand Gaur,
Section Engineer,
Northern Railway,
S.P.Road, New Delhi.
35. Shri Sartash Kumar S/O K.P.Singh,
Section Engineer/Chg.,
Northern Railway,
Hazrat Nizamuddin, New Delhi.
36. Shri Dharam Vir Singh S/O Ram Layak Singh,
Section Engineer, N.Railway.
37. Shri S.K.Puri,
Section Eigneer/Chg.,
Northern Railway, Panipat.
38. Shri Bharat Lal,
Section Engineer/STB,
Northern Railway.
39. Shri Balak Ram S/O Kanhiya Lal,
Section Engineer, Northern Railway,
Daya Basti, Delhi.
40. Shri Anil Kumar S/O Sukh Dev Raj,
Section Engineer, Northern Railway,
Baroda House, New Delhi.
41. Shri Rakesh Swaroop Mathur,
Section Engineer/ACC,
Northern Railway.
42. Shri Rajesh Kumar S/O Shyam Lal,
Section Engineer/STB,
Northern Railway, New Delhi.
43. Shri Ram Kumar,
Section Engineer/TL,
Northern Railway, Delhi.
44. Shri S.K.Chaddha,
Section Engineer/ACC,
Northern Railway, Delhi.
45. Shri Indu Prakash Sharma,
Section Engineer/STB,
Northern Railway, New Delhi.
46. Shri Vipin Dhamanda S/O Kalyan Singh,
Section Engineer, STB,
Northern Railway, New Delhi.
47. Shri Joginder Singh,
Section Engineer, Northern Railway,
DRM's Office, State Entry Road,
New Delhi.

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48. Shri Naseem Ahmed,
Section Engineer/PS,
Northern Railway,
Hazrat Nizamuddin,
New Delhi.

49. Shri Kunwar Laxman Khan,
Section Engineer/PS,
Northern Railway,
Hazrat Nizaamuddin, New Delhi.

50. Shri Narender Kumar S/O Vijay Kumar,
Section Engineer, Northern Railway,
Delhi Sarai Rohilla, Delhi.

51. Shri Arvind Kumar S/O Ram Kishan,
Section Engineer/PS,
Northern Railway, Jakhal (Haryana).

52. Shri Shiv Kumar S/O Basant Lal,
Section Engineer/ACC,
Northern Railway, New Delhi.

53. Shri Prem Chand S/O Gazittoo,
Section Engineer/STB,
Northern Railway, New Delhi.

54. Shri Sudhir Kumar Malik,
Section Engineer/PS,
Northern Railway, Shamli (UP).

55. Shri Yogesh Kumar S/O A.C.Singh,
Section Engineer/PS,
Northern Railway, Ghaziabad. ... Respondents

(By Shri M.K.Bhardwaj for Ms. Anju Bhushan for Respondents 1&2; Shri R.L.Dhawan for Respondent No.3, Advocates)

O R D E R

Hon'ble Shri V.K.Majotra, Vice-Chairman (J):

Applicants were appointed as JE-II along with others by Headquarters Office, New Delhi in the year 1983 on selection through Railway Service Commission and after being imparted necessary training, on allotment of Bikaner Division, they joined there in June 1985. They were further promoted as Chargeman grade Rs.5500-9000 and then as Senior Chargeman grade Rs.6500-10500 on 10.8.2001. On restructuring of Railway Zones, it is claimed, applicants were transferred to Northern Railway on administrative grounds w.e.f. 1.4.2003.

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It is alleged that their junior batch-mates and many others who were appointed much later in 1980s and even 1990s have been placed senior to applicants vide seniority list dated 16.7.2003 (Annexure A-1). Their representations for allocation of seniority in terms of Railway Board's orders circulated under PS No.1843 have been rejected by impugned orders dated 27.11.2003 (Annexure A-3). Applicants have sought quashment of Annexure A-3 as also Annexure A-1 dated 16.7.2003, i.e., the seniority list.

2. The learned counsel of applicants contended that respondents 4, 5 and 6 are juniors to applicants as per merit list issued by respondent No.1 on completion of training period of two years. In this connection, the learned counsel referred to Annexure A-5 dated 9.8.1985 wherein applicants have been shown at serial numbers 1 and 3 vis-à-vis respondents 4, 5 and 6 at serial numbers 22, 23 and 7 respectively. The learned counsel further stated that respondents No.7 onwards were appointed much later than applicants in 1980s and 1990s. He further pointed out that on restructuring of the Railway Zones, applicants had opted for Bikaner Division but they were transferred to Delhi Division against their options. He contended that in terms of PS No.1843 inter se seniority of applicants as direct recruits had to be maintained irrespective of the Division to which they belonged by re-arranging their position in the combined seniority lists formed for posts in order of merit in the original panel or as obtained in the final examination, where training is provided and not in terms of para 320 of IREM Vol.-I. IN this connection, the learned counsel relied upon *The Central Council of Research in Ayurveda and Siddha v Dr. K. Santhakumari* AIR 2001 SC 2306. It is alleged that on placement of applicants under the administrative control of DRM, Delhi Division, Northern Railway, w.e.f. 1.4.2003, their seniority has been adversely affected with the result that their juniors in Bikaner Division have been promoted and applicants have been bypassed.

3. Vide order dated 22.4.2004, barring respondents 1 to 3 – the official respondents, Shri P.K.Tomer (Respondent No.31), Shri Anil Kumar (Respondent No.27), Shri D.C.Singh (Respondent No.17) and Shri Prem Chand (Respondent No.54), other private respondents were proceeded *ex parte* having remained absent despite service of notice. Today, so far as respondents are concerned, no one has appeared besides counsel for official respondents 1 to 3. We have proceeded to consider the case in the absence of private respondents in terms of rule 16 of the C.A.T. (Procedure) Rules, 1987.

4. Shri R.L.Dhawan, learned counsel of respondents stated that after the transfer of applicants w.e.f. 1.4.2003 to Delhi Division of the Northern Railway their seniority in the previous Bikaner Division stands severed. The learned counsel stated that applicants' case will not be governed by PS No.1843 but by paragraph 140 IREM.

5. We have considered the respective pleadings and contentions raised before us on behalf of parties.

6. It remains uncontroverted that applicants were senior to private respondents on the basis of merit list dated 9.8.1985 (Annexure A-5). PS No.1843 dated 22.11.1962 (Annexure A-6) is certainly applicable for seniority of staff of one or more than one categories holding posts controlled by Divisions for the purpose of holding selections. Note (iii) thereunder states as follows:

“(iii) In cases in which the lower post is one to which direct recruitment is also made, the interse seniority of the direct recruits, irrespective of the Division to which they belong will be maintained by re-arranging their position in the combined seniority list formed for posts controlled by Headquarters Office in order of merit on the original panel or as obtained in the final examination where training is provided, before posting to working posts. This would mean giving the senior most the longest service if he has less service and the junior the service rendered by the senior and so on. This reshuffle would be done in the headquarters office.”

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The import of the above circular is that the *inter se* seniority of the direct recruits irrespective of the Division to which they belong has to be maintained by re-arranging their position in the combined seniority list formed for posts controlled by Headquarters in order of merit on the original panel or as obtained in the final examination where training is provided, as in the instant case. Vide Annexure R-4 dated 15.7.2002, options were called from staff to serve in Headquarters of new Railway Zones. These options were to be exercised latest by 15.9.2002 and any transfers to the new Zones after 1.10.2002 were to be treated as on own request on acceptance of bottom seniority. Applicants had exercised their options for Bikaner Division. Respondents have not denied this contention. When applicants had submitted their options for Bikaner Division, their transfer to Delhi Division has to be treated as on administrative grounds and cannot adversely affect their seniority that obtained in the Bikaner division, particularly in terms of PS No.1843. This view gets reinforced from the ratio of the case of *Dr. K. Santhakumari* (supra) and applicants' seniority has to be reckoned on the basis of total strength of service and they cannot be allocated bottom seniority in Delhi Division on their transfer in April, 2003. When applicants had been transferred on administrative grounds against their options for Bikaner Division, respondents cannot deny them the benefit of their service in Bikaner Division or their seniority in the combined seniority list by re-arranging their position on the basis of original panel as formulated by the Railway Service Commission in combination with their position after successful completion of the apprenticeship training.

7. In the totality of the facts and circumstances as discussed above, Annexure A-3 dated 27.11.2003 is quashed and set aside. Annexure A-1 dated 16.7.2003 is also quashed and set aside *qua* the applicants directing respondents to consider applicants' claim in regard to their seniority in terms of PS No.1843 and also the fact that they had been transferred to Delhi division on administrative grounds and against their options.

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8. Respondents are further directed to implement the above directions within a period of three months from the date of communication of these orders.

S. Raju
(Shanker Raju)

Member (J)

/as/

V. K. Majotra
(V. K. Majotra)

Vice-Chairman (A)

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