

**CENTRAL ADMINISTRATIVE TRIBUNAL
AMHEDABAD BENCH**

Original Application No. 417 of 2019
Ahmedabad, this the 20th day of November, 2019

CORAM :

Hon'ble Sh. M.C. Verma, Member (Judicial)

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- 1- Sunil S/o Shri Ramnarayan Kataria aged about 49 years serving as Loco Pilot (Goods) at Sabarmati, Ahmedabad residing at H 103, Samarthya Status, D-Cabin, Sabarmati, Ahmedabad – 382 460.
- 2- Mukesh S/o Shri Harjibhai Jadav aged about 43 years, serving as Loco Pilot (Goods) at Sabarmati, Ahmedabad, residing at C-10, Rajatpark Society, Nr. Chandkheda Bus Stad, Chandkheda – 382424. **... Applicants**

(By Advocate :Mr. K.R.Mishra)

VERSUS

- 1- Union of India through the General Manager, Western Railway, Office of the General Manager, Churchgate, Mumbai – 400 020.
- 2- Divisional Railway Manager, Ahmedabad Division, Office of Divisional Railway Manager, Naroda Road, Saraspur, Ahmedabad-382345 **....Respondents**

O R D E R (ORAL)

M.C.Verma, Member (J) :

The pleadings as has been set out in the O.A. reveals that applicant No. 1 and 2 entered into the service of respondents on 19.08.1998 and on 25.01.2000 respectively and thereafter were promoted as Loco Pilot (Goods) on 10.03.2008. That Serv Sh. Ramavtar Chhajuram Gurjar, Rambux Musaram and Vinodkumar Mahadevprasad Bairwa, had joined the Railways and promoted as Loco Pilot (Goods) on 10.03.2011 i.e. exactly three years after applicant's promotion. That in the Seniority List published in March 2016 names of the applicants were rightly shown as seniors to aforesaid three incumbents but in the Seniority List published by the respondents on 16.07.2018 (Annex.A/3) applicants have been

shown as juniors to aforesaid three Loco Pilots. That the Union (WRMS) also through a letter dated 13.07.2019 (Annex.A/3) requested the respondent No. 2 to resolve the issue of seniority but, instead of resolving the issue, respondent did issue Suitability List, vide Annex.A/1 dated 24th October, 2019, violating the rules and regulations of the Railway Board on the subject, which is under challenge in this O.A. An MA having prayer to allow the applicants to join in one application has also been preferred with the O.A.

2. It has been pleaded further that in List of Suitability, issued vide order dated 24.10.2019, names of applicants are missing whereas the names of their three juniors referred to above, have been included., therefore, applicants by way of this O.A. prayed to quash the Notification i.e. Suitability List issued vide Annex.A/1 in the garb of Railway Board Rules and in interest of justice. It has also been prayed to stay the operation of impugned Notification dated 24.10.2019 issued by the Divisional Railway Manager (Respondent No.2) until disposal of the instant O.A.

3. Heard the learned counsel Sh. K.R.Mishra. M.A. No. 432/2019, for joint application is allowed. It is the case of applicants that their names have not been included in the suitability list whereas, the names of their juniors, who were promoted as Loco Pilot (Goods) later on, have been shown in the list. The initial seniority list, as per pleadings, was replaced vide Notification dated 16.07.2018 and applicants have been shown junior to three persons named above. The said seniority list, dated 16.07.2018 has not been challenged in the O.A.

4. After perusal of the record, facts emerged that in the Seniority List dated 16.07.2018 applicants are junior and that it has not been pleaded in O.A. that Seniority List dated 16.07.2018 has

not attained finality, there is no prayer too for quashment of this seniority list and the Seniority List dated 16.07.2018 is not under challenge so bringing these facts to the notice of learned counsel, a query was put to him that if Seniority List dated 16.07.2018 has attained finality, how the contention that applicants are senior, would sustain and how in such back drop, the O.A., in present form, can be entertained?, but learned counsel rather to answer the query urged that he may be allowed to withdraw this O.A. with liberty to file another appropriate O.A., if needed. Request for withdrawal is acceded to. The O.A. therefore, is, disposed of as withdrawn.

(M.C.Verma)
Member (J)

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