

(2011) 07 DEL CK 0176

In the Delhi High Court

Case No : Writ Petition (C) No. 276 of 2007

Sh. J.K. Sethi

APPELLANT

Vs

General Manager, Northern Railway and Others

RESPONDENT

Date of Decision : 05-07-2011

Acts Referred:

Citation : (2011) 07 DEL CK 0176

Hon'ble Judges : Sudershan Kumar Misra, J;Anil Kumar, J

Bench : Division Bench

Advocate : Nemo, for the Appellant; Kumar Rajesh Singh, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The Petitioner has challenged the order dated 5th June, 2006 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 42 of 2004, titled as "Sh. J.K. Sethi and Anr. v. General Manager, Northern Railway and Ors.," dismissing the original application challenging the order dated 26th June, 2003 rejecting their representation for revision of seniority list. The claim of the Petitioners for directions to Respondent No. 1 to assign them seniority in accordance with the rules, particularly rule/para 302 of IREM Vol.-I, placing them senior to those who had been selected under the intermediate apprentice quota with consequential benefits was also declined.

2. While dismissing the original application of the Petitioners which is challenged in the present writ petition, the Tribunal had noted that Respondent Nos. 2 to 6 were selected against the intermediate apprentice quota for the vacancies of the year 1997 whereas the Petitioners were promoted in the year 2000 and were selected in view of the cadre restructuring order dated 28th September, 1998.

3. It was also not disputed before the Tribunal that Respondents Nos. 2 to 6 were senior to the Petitioners as JD Ms and consequently they were also entitled for consideration against promotion quota.

4. Respondent Nos. 2 to 6 were treated as selected against the promotion quota in view of the upgradation scheme dated 28th September, 1998 which was also the plea and contention of Respondent No. 1.

5. The Tribunal also took into consideration the fact that Respondent No. 2 to 6 were promoted by order dated 14th March, 2000 in the pay scale of Rs. 5000-8000/- and the validity of the order dated 14th March, 2000 had not been challenged by the Petitioners.

6. The Tribunal had rejected the contentions of the Petitioners that their seniority is governed under para 302 of the IREM Vol.-I and had held that para 306 provides that "candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the dates of the posting except in the case covered by para 305 above". It was not disputed that Respondent No. 2 to 6 were appointed pursuant to earlier selection in comparison to the Petitioner. As Respondents Nos. 2 to 6 were selected against the vacancies of the year 1997 and were promoted, whereas, the Petitioners were promoted by order dated 15th October, 1998 pursuant to the cadre restructuring order. It was also held that circular dated 16th November, 1990 is not applicable and thus, it was held that the action of Respondent No. 1 in not granting seniority to the Petitioners by order dated 26th June, 2003 and rejecting their representation is neither illegal, nor is to be interfered with on the grounds raised by the Petitioners.

7. No one is present on behalf of the Petitioner. Perusal of the record reveals that no one had been present on behalf the Petitioner even on 15th March, 2010 and 22nd July, 2010. The Tribunal has considered the pleas and contentions raised by the Petitioner in detail and in the circumstances, this Court is constrained to dismiss the writ petition in default of appearance of Petitioner and his counsel.

The writ petition is, therefore, dismissed in default.