

(1993) 01 DEL CK 0009
In the Delhi High Court
Case No : Civil Writ Appeal No. 1210 of 1973

Sri Ram Ojha

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 19-01-1993

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1993) 51 DLT 168

Hon'ble Judges : P.N. Nag, J

Bench : Single Bench

Advocate : L.D. Adlakha and Ripu Adlakha, for the Appellant;

Judgement

P.N. Nag, J.

(1) The Petitioner in this Writ Petition has challenged the selections made for the post of Inspector/RPF vide impugned letter dated 18-2-1974 of the Northern Railway (Annexure "A") and also the Joint Seniority list of Sub Inspectors Grade 1 & 2 of Uniform and Armed branches of Northern Railway (Annexure "B"), issued on 14/09/1973.

(2) The main grievance of the petitioner is that his name in the Joint Seniority list of Sub Inspectors Grade I and Ii of the Uniformed and Armed Branches of Railway Protection Force Staff, Northern Railway has been shown at Serial No. 145, which is not correct. In fact his seniority should have been fixed at Serial No. 21 in place of Sh. Kulwant Singh and the persons having seniority up to Serial No.81, namely, Sh. Mukhtiar Singh Dahiya, had been selected for the post of Inspector/RPF vide Annexure "A" and as such being senior he should also have been considered and selected for the post of Inspector. It amounts to supersession by the junior and as such he is entitled to be considered for the post of Inspector from the date of his junior was selected vide Annexure A. According to him, during the pendency of the writ petition he was promoted by the respondents as Sub Inspector Grade Ii from the post of Sub Inspector Grade

Ii (officiating capacity) in the month of June 1970. In fact the petitioner has been officiating on this post right from December 1966 and length of service as Sub Inspector Grade II should have been taken into consideration from 1966 itself and he should be assigned seniority from that year.

(3) I have considered the submission of Mr. Adlakha, learned Counsel for the petitioner. But the same is wholly unacceptable. The rule of seniority has been referred in paragraph 14 of the writ petition and according to this rule, the seniority of the directly recruited and promoted Sub Inspectors shall be combined seniority and the method of fixation of seniority as Sub Inspector has also been indicated therein. There is no material provided in the petition and no material particulars have been given as to who are the direct recruiters and who are the promotees and how the seniority has been fixed, In the absence of this data it is not possible to scrutinize the seniority list (Annexure B). However. I have seen prima facie the seniority list annexure B which shows that the petitioner has been appointed as the Sub Inspector Grade I in 1971 although the petitioner had been claiming that he was appointed in 1966 as Sub Inspector Grade Ii on the officiating capacity. There is no material to show that the petitioner was appointed in 1966 as Sub Inspector. Furthermore, this question at this very late stage cannot be reopened as it will unsettle the common seniority of all the employees. Therefore, the seniority list annexure B cannot be quashed as prayed for by the petitioner. Once the seniority list is sustained, obviously Mr. Mukhtiar Singh, the last person in the selected list annexure A, whose name appears at S. No. 81 in the Seniority List, being senior to the petitioner has to be upheld. The petitioner being junior at S. No. 145 to Mr. Mukhtiar Singh whose name finds place at S.No. 81 in the seniority list annexure B cannot claim the right of consideration. Since no right has been shown in favor of the petitioner for the purpose of Selection as Inspector, hence the writ petition is not maintainable and accordingly dismissed. In the circumstances I make no order as to costs.