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KUTTIYAPPAN

v.

UNION OF INDIA AND ORS.

AUGUST 26, 1996

B

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Service Law :*

C

*Railway Establishment Manual—Rules 302, 306—Inter-se seniority between regularly promoted in-service candidates and those selected by direct recruitment—Held, For direct recruits date of first entry and joining the post is the criteria—For promotees it would be the date on which they start working in the post after completion of the process—Criteria under Rule 306 not applicable in determining inter-se seniority between promotees and direct recruits.*

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 18584 of 1996.

From the Judgment and Order dated 30.1.96 of the Central Administrative Tribunal at Madras in O.A. No. 1470 of 1993.

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S. Muralidhar for the Petitioner.

The following Order of the Court was delivered :

Delay condoned.

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This SLP has been filed against the order of the Central Administrative Tribunal, Madras Bench made on January 30, 1996 in OA No. 1470/93. The admitted position is that the petitioner along with others came to be selected by internal selection for promotion under 25% quota. Undoubtedly, the process of selection was started in 1988 but the incumbents actually joined the promotional posts in October 1990. Though the process of selection for direct recruits under 25% quota reserved for the candidates from open market was started in 1989, they came to join the posts after completion of the selection process earlier to the petitioner & others in August 1990. The petitioners claimed seniority over them. The Tribunal

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has rejected their claim. Thus, this SLP.

It is contended for the petitioners, relying upon Rule 302 read with Rule 306 of the Indian Railway Establishment Manual that since the process of selection had been made earlier to the direct recruits, the petitioner is entitled to seniority over the direct recruits since they were selected earlier to the respondents and, therefore, they should be made seniors to the direct recruits. We find no force in the contention. Rule 302 reads as under :

"302. Seniority in initial recruitment Grades - Unless specifically stated otherwise, the seniority among the incumbents of a post in a grade is governed by the date of appointment to the grade. The grant of pay higher than the initial pay should not, as a rule, confer on a Railway servant seniority above those who are already appointed against regular posts. In categories of post partially filled by direct recruitment and partially by promotion, the criterion for determination of seniority should be the date of regular promotion after due process in the case of promotees and the date of joining the working post after due process in the case of direct recruit result subject to maintenance of inter-se seniority of promotees and direct recruits among themselves. When the dates of entry into a grade of promoted railway servants and direct recruits are the same they should be put in alternate positions, the promotees being senior to the direct recruits, maintaining *inter-se* seniority of each group."

Note - In case the training period of a direct recruit is curtailed in the exigencies of service, the date of joining the working post in case of such a direct recruit shall be the date we would have normally come to a working post after completion of the prescribed period of training.

(No. E (NG) 1-78-SR-6-42 dt. 7.4.1982 ACS 132)

Similarly, Rule 306 reads as under :

"306. Candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the dates of posting, except in the case covered by para 305."

A reading of these Rules would clearly indicate that the process of

- A selection bears no relevance. What is material in determination of the *inter-se* seniority between regularly promoted in-service candidates and those selected by direct recruitment during the process of selection is that in the case of the former the seniority starts from date on which they joined the working post after completion of the process while in the case of direct recruits their *inter se* seniority would start from the date of their entry into the grade. Therefore, as regards the direct recruits, the date of first entry and joining the post is the criteria, in the case of the promotees it would be the date on which they start working in the post after completion of the process. It is not in dispute that training is one of the conditions for completion of the process. Unless the training is completed, they cannot work on regular basis in the promotional post.

- D As regards Rule 306, it regulates in an area where the selected candidates were appointed earlier to the candidates who subsequently came to be selected and the earlier candidates become senior to the subsequent selectees irrespective of the date of posting. That criteria is inapplicable in determining the *inter se* seniority between the promotees and the direct recruits. The Tribunal, therefore, was right in rejecting the claim. It does not, therefore, warrant interference.

The SLP is accordingly dismissed.

- E G.N.

Petition dismissed.