



2025:DHC:7389-DB



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Reserved on: 01.08.2025***  
***Pronounced on: 28.08.2025***

+ W.P.(C) 9907/2023 & CM APPL. 38131/2023, CM APPL.  
45044/2024  
UNION OF INDIA AND ANR

.....Petitioners

Through: Ms.Nidhi Raman, CGSC with  
Mr.Arn timer Mittal & Mr.Nikunj  
Bindal, Advs.

versus

S. N. SHARMA AND ANR

.....Respondents

Through: Mr.A.K. Trivedi & Mr.Dhruv  
Kothari, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MS. JUSTICE MADHU JAIN**

### **J U D G M E N T**

**MADHU JAIN J.**

1. This petition has been filed by the petitioners, challenging the Order dated 02.01.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. 475/2017, titled as *S. N. Sharma & Anr. v. Union of India & Anr.*, allowing the said O.A. filed by the respondent herein, with the following directions :

*"13. After detailed discussion, we are of this  
view in the case in hand the judgment passed*



2025:DHC:7389-DB



*by Hon'ble High Court of Delhi in **Dr. Ramakant Singh** (supra) is found to be identical, only the post which are mentioned in the said judgment are different, but the ratio laid down by the Hon'ble High Court is the same. Thus, we have no hesitation to hold that this Tribunal's judgment in **Sunder Singh & Ors. vs. Union of India & Ors.** in OA No. 3133/2011 decided on 26.09.2012 and judgment of Hon'ble High Court in **Dr. Rama Kant Singh vs. Union of India** in WP (C) No. 5802/2015, whole the field, we hereby direct the respondents to give them seniority and notional promotion with all consequential benefits w.e.f. 09.10.2012 within a period of three months on receipt of a certified copy of this order. In view of the above directions, the OA is allowed. There shall be no order as to costs."*

**Brief Facts:**

2. It is the case of the appellant that the Indian Railway Traffic Service Cadre ('IRTSC') consists of two wings namely, Commercial Department and the Operating Department. The posts of Group B officers, being Assistant Commercial Manager ('ACM') and the Assistant Operating Manager ('AOM') in the two respective wings of IRTSC, are filled up through two quotas, being Limited Departmental Competitive Examination ('LDCE') 30% and Promotion (70%). It is averred that a common seniority list of ACM and AOM officers is maintained by the petitioners.

3. It is asserted that the notification for filling up 10 posts of AOM against 70% Promotion quota vacancies was issued on 16.03.2012. Thereafter, on 21.09.2012, after conducting the written exam and *viva voce*, 07 (UR) employees were placed in provisional panel for



2025:DHC:7389-DB



promotion to the post of AOM by the Operating Department of the Northern Railway. On 09.10.2012, promotion Orders for these seven employees were issued by the competent authority.

4. In the *interregnum*, on 14.06.2012, a notification for filing up 04 posts of AOM, against 30% LDCE quota vacancies, was issued. On 11.03.2013, one of the candidates approached the department for pre-selection coaching, due to which the written test, which was to be conducted on 17.03.2013, was postponed to 07.07.2013 for the pre-selection coaching for SC candidates. Thereafter, again, the exam was to be postponed as large number of representations from candidates were received for giving adequate time for preparation. Subsequently, the Centre where the examination was to be conducted, was not able to provide space and dates due to their prior commitment stating that no dates were available. Finally, the examination was conducted on 23.03.2014, however, on 30.04.2014, the learned Tribunal, in O.A. 1470/2014, filed by one of the candidates, restrained the respondent/railways from making any promotions on basis of the principal of reservation.

5. On 03.07.2015, the Railways Administration decided to proceed further for holding the selection, with the stipulation that the final result of the selection process would be subject to the outcome of W.P (C) No. 4993/2015 pending before this Court, and the result of the written examination was declared. The *viva voce* was conducted on 20.07.2015, and subsequently on 28.07.2015, promotion orders were issued promoting the respondents herein with immediate effect.

6. On 30.10.2015, a representation was made by the respondent



2025:DHC:7389-DB



no.1 herein, seeking fixation of the seniority with the panel of ACM (Commercial) 30% LDCE quota, as the panel of the respondent no.1 (AOM) was for the same assessment period as of the ACM (Commercial), but the panel of ACM (Commercial) had already been formed on 29.06.2012.

7. The respondents, thereafter, filed O.A. 475/2017 before the learned Tribunal praying for a direction to be issued to the petitioners herein to promote them as AOM notionally from the due date or in the alternative at least from 09.10.2012, that is, the date from which the similarly situated persons for the same assessment year were promoted under the 70% promotion quota, with all consequential benefits including fixation of seniority below the persons who were promoted under the 70% quota.

8. The learned Tribunal disposed of the said O.A. *vide* the Impugned Order, directing the petitioners to grant seniority and notional promotion to the respondents herein, with all consequential benefits, with effect from 09.10.2012, that is, the date from which the persons against the 70% promotion quota by seniority cum suitability were appointed, within a period of three months from the date of receipt of the certified copy of the said Order.

**Submissions by the learned counsel for the petitioners:**

9. The learned counsel for the petitioners submits that the learned Tribunal has erred in relying upon the Judgments passed by the Supreme Court in *Union of India & Ors. v. N.R. Banerjee & Ors.*, (1997) 9 SCC 287, and of this Court in *Dr. Ramakant Singh v. Union*



2025:DHC:7389-DB



*of India & Ors.*, 2016 SCC OnLine Del 4828 to allow the OA filed by the respondents..

10. She submits that the learned Tribunal has allowed the O.A. filed by the respondents herein without appreciating the peculiar facts of the present case. The delay caused in the present case in completing the promotion panel of the respondents was on account of the repeated representations by the candidates seeking additional time to prepare for the written test, as also because of the unavailability of the examination Center.

11. She further submits that the learned Tribunal has not taken into account the settled law on the subject that promotion to a post should only be granted from the date of promotion and not from the date the vacancy has arisen.

12. The learned counsel for the petitioners submits that the learned Tribunal has completely ignored the law laid down by the Supreme Court in *K. Meghachandra Singh v. Ningam Siro*, (2020) 5 SCC 689, where it has been held that a person is disentitled to claim seniority from a date on which he was not even borne in cadre.

**Submissions by the learned counsel for the respondents:**

13. On the other hand, the learned counsel for the respondent submits that the learned Tribunal has correctly applied the law laid down by this Court in *Dr. Ramakant Singh* (supra), and the Order of learned Tribunal does not suffer from any legal infirmity.

14. He submits that the delay caused in the completion of the promotion panel of the respondents is solely attributable to the



2025:DHC:7389-DB



petitioners herein, therefore, the respondents cannot be made to suffer for the administrative delays caused by the petitioners.

15. He further submits that the respondents are entitled for the notional promotion from the date on which the vacancy for the post arose.

**Analysis and findings:**

16. We have considered the submissions made by the learned counsels for the parties.

17. It is not in dispute that the promotion Order from Group C service to Group B service for post of AOM, against the 70% promotion quota was issued on 09.10.2012, whereas, the promotion Order of the respondents, who were selected through 30% LDCE quota vacancy, was issued on 24.07.2015.

18. In ***K. Meghachandra*** (supra) the Supreme Court has held as under:

*“28. Before proceeding to deal with the contention of the appellants' counsel vis-à-vis the judgment in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] , **it is necessary to observe that the law is fairly well settled in a series of cases, that a person is disentitled to claim seniority from a date he was not borne in service.** For example, in Jagdish Ch. Patnaik [Jagdish Ch. Patnaik v. State of Orissa, (1998) 4 SCC 456 : 1998 SCC (L&S) 1156] the Court considered the question whether the year in which the vacancy accrues can have any bearing for the purpose of determining the seniority irrespective of the fact when the person is actually recruited. The Court observed that there could be time-lag between the year when the vacancy accrues*



2025:DHC:7389-DB



and the year when the final recruitment is made. Referring to the word “recruited” occurring in the Orissa Service of Engineers Rules, 1941 the Supreme Court held in Jagdish Ch. Patnaik [Jagdish Ch. Patnaik v. State of Orissa, (1998) 4 SCC 456 : 1998 SCC (L&S) 1156] that person cannot be said to have been recruited to the service only on the basis of initiation of process of recruitment but he is borne in the post only when, formal appointment order is issued.

38. At this stage, we must also emphasise that the Court in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] need not have observed that the selected candidate cannot be blamed for administrative delay and the gap between initiation of process and appointment. Such observation is fallacious inasmuch as none can be identified as being a selected candidate on the date when the process of recruitment had commenced. On that day, a body of persons aspiring to be appointed to the vacancy intended for direct recruits was not in existence. The persons who might respond to an advertisement cannot have any service-related rights, not to talk of right to have their seniority counted from the date of the advertisement. In other words, only on completion of the process, the applicant morphs into a selected candidate and, therefore, unnecessary observation was made in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] to the effect that the selected candidate cannot be blamed for the administrative delay. In the same context, we may usefully refer to the ratio in Shankarsan Dash v. Union of India [Shankarsan Dash v. Union of India, (1991) 3 SCC 47 : 1991 SCC (L&S) 800] , where it was held that even upon empanelment, an appointee does not acquire any right.”

**(Emphasis Supplied)**





2025:DHC:7389-DB



19. The Supreme Court has, therefore, clarified that it is only upon completion of the selection process, that the person so selected can claim seniority and that such seniority cannot be claimed from the date when the incumbent is yet to be borne in the Cadre.

20. So far as reliance of the learned counsel for the respondents on the Judgment in *Dr. Ramakant Singh* (supra) is concerned, in that case, there was no justifiable reasons for the department for the delay caused in holding the DPC. It was in those facts that the petitioner therein were held entitled for notional promotion from the date when the vacancy arose. However, in the case in hand, not only in O.A. but also in the present Writ Petition, the petitioners herein have duly outlined the reasons for the delay, which were beyond their control. The said delay was on account of the representations made by the candidates seeking more time to appear in the departmental examination, and also because of the unavailability of the Centre where the examinations were to be held. Thus, these reasons were beyond the control of the petitioners, and no fault can be found with the petitioners for this delay.

21. In *N.R. Banerjee* (supra), the Supreme Court, while recognizing that the DPC should consider the cases of candidates becoming eligible year-wise, however, there is no obligation on the department to fill up all the vacancies. The Court further held that it is settled law that mere inclusion of one's name in the list does not confer any right on him/her to seek appointment. The said Judgment, therefore, does





2025:DHC:7389-DB



not support the respondent.

22. In view of the above, the Impugned Order passed by the learned Tribunal cannot be sustained, and is therefore, set aside.

23. The petition is allowed in the above terms. The pending applications are disposed of for being infructuous.

24. There shall be no orders as to costs.

**MADHU JAIN, J.**

**NAVIN CHAWLA, J.**

**AUGUST 28, 2025**

**ssc/P/VS**