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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 610 OF 2002

Union of India	...Petitioner
Vs.	
Sumit Kumar Singh & ors.	...Respondents

.....
Mr. Suresh Kumar along with Ms. Mohinee Chougule, Advocate
for the petitioner.

Mr. Rahul Walia, Advocate for the respondents.

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**CORAM : SMT. V.K. TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

DATE : 1st FEBRUARY, 2018.

ORDER (PER M.S.KARNIK, J.) :-

The challenge in this petition by the petitioner – Union of India under Article 226 of the Constitution of India is to the judgment and order dated 2nd August, 2001 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai ('the Tribunal' for short) in O.A. No.887 of 1997. The Tribunal by the impugned order was pleased to quash revised seniority list dated

25/9/1997 relating to Diesel/Electrical Assistants in the scale of Rs.950-1500.

2. The facts of the case in brief are as under :-

By Notification dated 7/9/1994 applications were invited for filling the posts of Diesel Assistant/Electrical Assistants in the pay scale of Rs.950-1500. The respondent Nos.1 to 8 – original applicants were working at that time in running cadre. The result of successful candidates was declared on 1/11/1994 which included the names of respondent Nos. 1 to 8. Final list of selected candidates was published on 16/11/1994. Respondent Nos. 1 to 8 attended the training commencing from 12/1/1995. Upon completion of training of 37 weeks, respondent Nos. 1 to 8 joined on 4/10/1995. A seniority list dated 16/10/1996 was prepared. Respondent Nos. 1 to 8 were given seniority on the basis of the date of absorption and were placed at serial no. 405 onwards. They were promoted in the 20% quota from artisan category to the post of Electrical Assistant as provided in para 138(d) of the Indian Railway

Establishment Manual ('IREM' for short). After completion of all formalities respondent Nos. 1 to 8 joined on 10/10/1995. The petitioners also resorted to Direct Recruitment for the said posts. The posting orders of the direct recruits were issued subject to passing absorption/qualifying test whenever required. The posting of the said direct recruits was made subject the condition that they shall rank below all departmental Diesel Assistants/Assistant Drivers posted vide office order dated 4/10/1995. Direct recruits joined their post from 12/10/1995 and were shown as junior to respondent Nos. 1 to 8 in seniority list dated 16/10/1996.

3. Placing reliance on Rule 302 of IREM the petitioner issued seniority list dated 25/9/1997 where respondent Nos. 1 to 8 are sought to be placed below direct recruits. It is the contention of petitioners that the training period of respondent Nos. 1 to 8 (rankers) was curtailed to 37 weeks only when normal training period is 52 weeks. According to learned Counsel for the petitioners, as per Rule 302 of the IREM they are

to be treated as notionally appointed after considering training period of 52 weeks instead of 37 weeks. In the submission of the learned Counsel, it is only in respect of direct recruits that training period could be curtailed and no such provision exist in so far as rankers.

4. Learned Counsel for respondent Nos. 1 to 8 on the other hand invited our attention to the order passed by the Tribunal and the findings recorded. In our opinion, the order passed by the Tribunal is well reasoned order. It is not disputed that on completion of 37 weeks of training the rankers were absorbed in the post. In so far as direct recruits are concerned, Rule 302 itself provides for the consequence in the case of curtailment of the training period in the exigencies of service. The Tribunal has held that no such provisions exist in so far as rankers are concerned. It is not as if the rankers' training period prescribed was 52 weeks and thereafter in exigencies of the service period is curtailed to 37 weeks. The Tribunal has observed that in so far as rankers are concerned,

when they were sent for training the period prescribed was 37 weeks, upon completion of which they were posted after completing all formalities on 10/10/1995. Even otherwise the posting orders of direct recruits were issued subject to placing them below the respondent Nos. 1 to 8 in the seniority list. In these circumstances issuing a revised seniority list placing the respondent Nos. 1 to 8 below the direct recruits was untenable. We therefore do not find any infirmity with the view taken by the Tribunal that the rankers (respondent Nos. 1 to 8) would be entitled to seniority from the date they are absorbed in the post viz. the date of regular promotion. If in these circumstances the Tribunal was of the opinion that nothing can be read in IREM 302 which is not incorporated therein, we do not find that the Tribunal's view warrants interference. The order passed by the Tribunal is well reasoned.

5. We are therefore not inclined to interfere with the order passed by the Tribunal in the exercise of our writ jurisdiction under Article 226 of the Constitution of India.

6. The Writ Petition is accordingly dismissed.
7. Rule is discharged with no order as to costs.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)