

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.7004 of 2018 (O&M)

Date of Decision: 30.08.2018

Union of India & Ors.

...Petitioners

VS.

Maha Singh & Ors.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Sudip Ahluwalia**

Present: Mr. DK Bhatti, Advocate for the petitioners

SURYA KANT J. (Oral)

(1) Union of India and the Railway authorities have preferred this writ petition challenging the order dated 22.11.2017 (P36) passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') whereby the OA filed by first respondent was allowed and he has been held entitled to assignment of seniority from the date of joining service i.e. 22.02.2002 instead of the date when he completed his training i.e. on 29.08.2007.

(2) The issue which fell for consideration of the Tribunal was whether the first respondent is entitled to seniority from the date he was appointed on regular basis as a Commercial Clerk or when he completed his training on 29.08.2007?

(3) The facts are not in dispute.

(4) The first respondent was appointed by way of direct recruitment as Commercial Clerk being an outstanding sportsperson on 08/18.02.2002. The Railway Authorities, since his appointment, have been availing his services in sports activities and he was repeatedly sent to participate in various championships held from time to time.

(5) As the first respondent remained occupied in the sports activities, he could not be deputed to undertake the departmental training, for which he eventually spared and sent in the year 2007.

(6) The petitioners issued seniority list in which the first respondent was placed at Sr.No.10, namely, below the private respondents on the premise that his date of joining shall be taken as 29.08.2007 when he completed his training.

(7) The Tribunal annulled the above-stated decision and has accepted the claim of first respondent on the strength of Note-I below Para 302 of “Rules Regulating Seniority of Railway Servants” which provides that *“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 he would have normally come to a working post after completion of the prescribed period of training”*.

(8) It is not disputed before us that the first respondent was indeed asked to participate in various sports activities during the period from 2002-07. The petitioners have nowhere averred that during the interregnum the first respondent had sufficient time to complete the training or he was ever offered to undergo such training. In such a fact situation, Note-I below Para-302 of the Rules relied upon by the Tribunal, surely will apply. The first respondent cannot be made to suffer in terms of the seniority for no fault on his part.

(9) The private respondents have not come forward to challenge the Tribunal’s order whereby first respondent now ranks senior to them. We thus see no ground to interfere with the impugned order.

(10) For the reasons afore-stated, the writ petition is dismissed being devoid of merit.

(Surya Kant)
Judge

30.08.2018
vishal shonkar

(Sudip Ahluwalia)
Judge

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |