

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 10851/2025

1. Union Of India, Through General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, Nw Railway, Jodhpur Division, Jodhpur.
3. Senior Divisional Personnel Officer, Nwr, Jodhpur Division, Jodhpur.
4. Railway Recruitment Board, Ambedkar Circle, Ajmer.

----Petitioners

Versus

1. Tara Singh S/o Sh. Ram Saran, Aged About 32 Years, R/o Railway Quarter No.1027, Nehru Park, Railway Colony, N.w.r. Jodhpur. Presently Working On The Post Of Assistant Loco Pilot C/o Sse N.w. Railway, Jodhpur.
2. Devendra Kumar S/o Sh. Kameshwar Yadav, R/o Quarter No.121A Loco Colony, N.w.r. Jodhpur. Presently Working On The Post Of Assistant Loco Pilot C/o Sse N.w. Railway, Jodhpur.
3. Hari Narayan Meena S/o Sh. Ram Phool Meena, R/o C/o Sse Loco Lobby Nwr Samdari. Presently Working On The Post Of Assistant Loco Pilot C/o Sse Loco Nwr, Samdari.
4. Shiv Singh Meena S/o Sh. Gutti Ram Meena, R/o C/o Sse Loco Lobby, Nwr, Samdari. Presently Working On The Post Of Assistant Loco Pilot C/o Sse N.w. Railway, Samdari.
5. Mahendra Kumar S/o Sh. Sahdev Prasad Verma, R/o C/o Sse Loco Lobby Nwr, Merta Road. Presently Working On The Post Of Assistant Loco Pilot C/o Sse Loco N.w. Railway, Merta Road.
6. Vivek Kumar S/o Sh. Nanhku Prasad, R/o C/o Sse Loco Lobby, Nwr, Jodhpur. Presently Working On The Post Of Assistant Loco Pilot C/o Sse Loco N.w. Railway, Jodhpur.
7. Krishan Prasad S/o Sh. Karu Prasad, R/o C/o Sse Loco Lobby Nwr, Jodhpur. Presently Working On The Post Of Assistant Loco Pilot C/o Sse Loco N.w. Railway, Jodhpur.
8. Amit Chander Singh S/o Sh. Ramdev Singh, R/o C/o Sse Loco Lobby, Nwr Jodhpur. Presently Working On The Post Of Assistant Loco Pilot C/o Sse Loco N.w. Railway

Jodhpur.

9. Sh. Ram Swaroop Meena S/o Sh. Har Phool Meena, Assistant Loco Pilot C/o Sse Loco Nwr, Jodhpur.
10. Sh. Ram Kishore Mali S/o Sh. Ramjee Lal Mali, Assistant Loco Pilot C/o Sse Loco Nwr, Merta Road.

----respondents-applicants

For Petitioner(s) : Mr. Deelip Kawadia
For Respondent(s) : Mr. Sarvan Kumar Malik

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE SANDEEP SHAH

Judgment

(As per Hon'ble Sandeep Shah J.)

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| 1. Date of conclusion of arguments | 08.04.2026 |
| 2. Date on which judgment was reserved | 08.04.2026 |
| 3. Whether the full judgment or only the operative part is pronounced: | Full Judgment |
| 4. Date of pronouncement | 21.04.2026 |

1. The petitioners have filed the present writ petition challenging the validity and propriety of the impugned order dated 21.10.2024 passed by the learned Central Administrative Tribunal, Jodhpur Bench, Jodhpur, whereby the Tribunal while disposing of the Original Application No.268/2015 filed by the respondents-original applicants, quashed and set aside the Assistant Loco Pilot (ALP) Seniority Lists dated 30.01.2015 and 02.07.2015.

Factual matrix:-

2. Brief facts of the case are that respondent-applicants were initially appointed to Group 'D' posts (Gangman/Trackman, Khalasi, Gateman) in the year 2008 and were posted at various railway stations under the control of North Western Railway, Jodhpur Division. The petitioners issued notification dated

29.06.2009, notifying 25% of direct recruitment quota posts in various Group 'C' categories through the General Departmental Competitive Examination (GDCE), for which applications were invited from regular serving railway employees. Subsequently, an Employment Notice dated 30.01.2010 was issued inviting applications from the open market for filling up the said posts. A single examination was conducted by the Railway Recruitment Board (RRB), Ajmer for selection against both the GDCE quota (departmental candidates) and the open market quota. The panel for open market candidates (direct recruitment) for the post of ALP comprising 176 candidates was prepared by RRB, Ajmer on 10.10.2011. This panel was received by Jodhpur Division from the Headquarters Office, NWR vide letter dated 17.10.2011. Consequently, these candidates were sent for pre-requisite training course. In contrast, the panel for the respondents-applicants (25% GDCE quota) comprising 10 candidates was prepared by RRB, Ajmer on 18.10.2011 but was received by Jodhpur Division from the Headquarters Office only vide letter dated 08.06.2012. The tabular date wise details are as under:-

Sr. No.	Recruitment Category	Date of publication of notification	Closing date of notification	Date of Examination	Date of Preparation of Panel by RRB	Date on which panel sent to HQ office
1.	Direct recruitment through open market	30.10.2010	02.03.2010	13.02.2011	01.10.2011	10.10.2011
2.	Recruitment through GDCE (departmental candidates)	29.06.2009	17.08.2009	13.02.2011	14.10.2011	18.10.2011

3. As a result, the respondents-applicants were sent for pre-requisite training later than the open market candidates. Based on this sequence, the petitioners issued a Provisional Seniority List

dated 30.01.2015 and after consideration of objections against the same, a Final Seniority List dated 02.07.2015. Seniority was fixed in terms of Para 303(a) of the Indian Railway Establishment Manual Vol.I, which provides that candidates sent for initial training shall rank in seniority in the order of merit obtained in the examination held at the end of the training period before being posted against working posts. It further provides that those who join subsequent courses or pass in subsequent chances will rank junior to those who passed earlier.

4. Aggrieved by the aforementioned Seniority Lists, the respondents-applicants filed Original Application before the Central Administrative Tribunal, Jodhpur.

5. By the impugned order dated 21.10.2024, the learned Tribunal quashed and set aside the Seniority Lists dated 30.01.2015 and 02.07.2015, directing the petitioners to re-visit the issue of inter-se seniority of the ALPs selected through direct recruitment and those selected through promotions under the 25% LDCE quota. The Tribunal further directed that this re-visitation be done after hearing incumbents of both categories, as per rules, and keeping in view the observations made by the Tribunal in its order.

6. The petitioners have approached this Hon'ble Court seeking to assail the Tribunal's order on the grounds that it failed to appreciate the clear provisions of Para 303(a) of the Indian Railway Establishment Manual Vol.I, the separate nature of the two selection processes and the significant time gap in receipt of panels and subsequent training, which formed the lawful basis for the impugned seniority lists.

Arguments on behalf of learned counsel for the petitioners:-

7. Learned counsel for the petitioners submitted that the learned Tribunal has committed a grave error of law as well as of the fact while allowing the O.A. filed by the respondents-applicants and quashing the Seniority Lists dated 30.01.2015 and 02.07.2015. He submitted that the learned Tribunal has further erred in directing the petitioners to re-determine the inter-se seniority between directly recruited ALPs and those promoted under the 25% quota through Limited Departmental Competitive Examinations (LDCE), after hearing both categories and in light of the its observations. Learned counsel contended that while passing the impugned order, the learned Tribunal ought to have considered that the seniority of the respondents-applicants was fixed in accordance with Rule 303(a) of the Indian Railway Establishment Manual Vol.I. Learned Tribunal, however, failed to appreciate this vital aspect.

7.1. Furthermore, learned Tribunal ought to have appreciated that direct recruitment from open market candidates and recruitment under the 25% GDCE quota are separate processes. Selections for both quotas were conducted independently by the Railway Recruitment Board, Ajmer. He further submitted that the panel for the post of ALP of direct recruitment, i.e. open market recruitment for 176 candidates was prepared by RRB, Ajmer on 10.10.2011 and was received by the Jodhpur Division of the Headquarters office NWR, vide letter dated 17.10.2011, whereas the panel for post of ALP of the respondents-applicants, i.e. 25% quota for departmental candidates was likewise prepared on 18.10.2011

and received vide letter dated 08.06.2012. Therefore, the panel for direct recruitment to the post of Assistant Loco Pilot was prepared separately, and the merit order determined therein has its own legal significance. The inter-se seniority between direct recruits and LDCE promotees ought to be governed by the applicable rules, which the learned Tribunal overlooked. The impugned order suffers from an error apparent on the face of record and is wholly illegal, unjust, arbitrary and bad in law. For the reasons stated above, the impugned order deserves to be quashed and set aside.

Arguments on behalf of learned counsel for the respondents-applicants:-

8. Learned counsel for the respondents-applicants submitted that the process for filling the posts of Assistant Loco Pilot (ALP) through the GDCE scheme, meant for regular serving employees, was initiated first vide order dated 29.06.2009 issued by petitioner No.3, whereas, the notification for direct recruitment from the open market was issued only later in 2010. Despite this, the respondents-applicants have been assigned seniority below those appointed pursuant to a subsequent notification. Such fixation is arbitrary, irrational, and violative of Articles 14 and 16 of the Constitution of India.

8.1. He submitted that it is a settled principle of service jurisprudence that seniority is ordinarily determined on the basis of the date of notification and initiation of selection proceedings. The petitioners have failed to provide any cogent or justifiable reason for delaying the training of the respondents-applicants, who were selected under the 25% GDCE quota, while sending

open market candidates for training and according them posting earlier than the respondents-applicants.

8.2. He further submitted that the respondents-applicants have already rendered more than three years of regular service in the Railways and besides that, they are required to be qualified under the GDCE based on an earlier notification, whereas open market candidates were selected under a later notification. The petitioners have completely overlooked this material distinction, thereby causing grave prejudice to the respondents-applicants.

8.3. It was further contended that in an identical situation concerning the selection of Assistant Station Masters (ASM), the petitioners sent the GDCE-selected candidates for training earlier and granted them seniority over directly recruited ASMs. However, in the case of the respondents-applicants, the petitioners deliberately delayed their training and posting while according preference to directly recruited ALPs. This hostile discrimination is again a clear violation of Articles 14 and 16 of the Constitution of India.

8.4. Furthermore, as per the applicable quota-rota rule, the respondents-applicants ought to have been granted seniority over the direct recruits. By failing to apply this rule, the petitioners have unlawfully placed direct recruits above the respondents-applicants. Moreover, the impugned seniority lists, if allowed to stand, will cause irreparable injury to the respondents-applicants by relegating them below direct recruits who were selected later. This adverse seniority will directly and adversely affect their future prospects, including promotions vis-a-vis the said direct recruits, in complete derogation of the rules laid down in the Railway

Establishment Manual, 1989. The impugned seniority lists are therefore liable to be quashed and set aside.

9. Heard learned counsel for both the parties and perused the material available on record.

Analysis:-

10. Rules 302 and 303 of the Indian Railway

Establishment Manual Vol.I read as follows:-

"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 posts 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 promotee and the date of joining the working post after due process in the case of direct recruit, 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."

"303. The seniority of candidates recruited through the Railway Recruitment Board or by any other recruiting authority should be determined as under :—

(a) "Candidates who are sent for initial training to Training Schools will rank in Seniority in the relevant Grade in the order of over-all merit obtained in the examination(s) held at the end of the training period (s) before being posted against working post. Those who join the subsequent courses and those who pass the examination in subsequent chances will rank junior to those who had passed the examination. In case, however, persons belonging to the same RRB panel are sent for initial training in batches due to administrative reasons and not because of reasons attributable to the candidates, the inter-se seniority will be regulated batch-wise provided persons higher up in the panel of RRB not sent for training in the appropriate batch (as per seniority) due to administrative reasons shall be clubbed along with the candidates who took the training in the appropriate batch for the purpose of regulating the inter-se seniority provided such persons pass the examination at the end of the training in the first attempt"."

11. The only issue which needs to be adjudicated in the present case is whether the petitioner-Union of India was justified in assigning the seniority to the respondents-applicants below the persons selected through direct recruitment and not through limited departmental competitive examinations (like the

respondents-applicants), only for the reason that RRB had sent the panel after a delay of 8 days (and which was received by them much later) vis-a-vis the panel sent for directly recruited persons.

12. Needless to emphasize that the seriatim of dates makes it clear that though the notification for recruitment through General Department Competitive Examination (GDCW) (i.e. departmental candidates) was published on 29.06.2009, i.e. prior in time to the notification issued for direct recruitment, which was issued on 30.10.2010, the date of examination of recruitment through both channels was same, i.e. 13.02.2011, and thereafter, the RRB was required to send the panel. The panel, admittedly, for direct recruitment through open market was sent on 10.10.2011, whereas the panel for recruitment through GDCE was sent on 18.10.2011. The RRB is the recruiting agency and not the employer itself. Thus, sending of the panel on a particular date is a fortuitous circumstance, which is beyond the control of the respondents-applicants and over which the respondents-applicants had no control whatsoever. The question would thus be whether the respondents-applicants can be made to suffer due to no fault on their part and the fault on the part of the RRB in sending the panel after a delay of 8 days, more particularly, when there is no such provision in the applicable Rules as to when the panels are to be sent.

13. An identical issue with regard to there being no fault of the employees due to delay in promotion and assignment of consequential seniority, came up for consideration before the Hon'ble Apex Court, in the case of **"Nirmal Chandra**

Bhattacharjee & Ors. vs. Union of India & Ors." 1991 Supp

(2) SCC 363, wherein, the Hon'ble Apex Court has held as under:

"5. One of the principles of service is that any rule does not work to prejudice of an employee who was in service prior to that date. Admittedly the vacancies against which appellants were promoted had occurred prior to restructuring of these posts. It is further not disputed that various other posts to which class 'IV' employees could be promoted were filled prior to 1st August 1983. The selection process in respect of Ticket Collectors had also started prior to August 1, 1983. If the department would have proceeded with the selection well within time and would have completed it before August 1, 1983 then the appellants would have become Ticket Collectors without any difficulty. **The mistake or delay on the part of the department, therefore, should not be permitted to recoil on the appellants.** Paragraph '31' of the restructuring order itself provides that vacancies in various grades of posts covered in different categories existing on July 31, 1983 would be filled in accordance with the procedure which was in vogue before August 1, 1983."

14. The abovementioned judgment was followed by the Hon'ble Apex Court in the case of **"State of Uttar Pradesh & Ors. vs. Mahesh Narain & Ors."** (2013) 4 SCC 169, wherein again it was held that where there is no fault on the part of the applicants, they cannot be made to suffer due to the fault on the part of the employer. The present case is a perfect example of the persons like the applicants being made to suffer, as far as seniority is concerned, only for the reason of delay on the part of a recruiting agency in sending their panel. Thus, the ratio laid down by the Hon'ble Apex Court, that an employee should not be made to suffer due to no fault on his part but the fault of the employer, squarely applies to the case in hand also.

15. The learned Tribunal has rightly considered the applicability of Rule 302 of the Indian Railway Establishment Manual Vol.I to the case in hand, while clearly observing that Rule 303(a) of the Indian Railway Establishment Manual Vol.I is not applicable. Rule 302, as quoted (supra), clearly provides that seniority is to be assigned in cases of recruitment through different modes, i.e.,

promotion and direct recruitment, in alternate positions, the promotees being senior to the direct recruits, maintaining inter-se seniority of each group.

16. As far as Rule 303(a) is concerned, much emphasis upon which has been laid by learned counsel for the respondents-applicants, the same would not apply to the case in hand, as the same is applicable in cases of assigning seniority when a candidate does not pass the training course in one attempt or is sent in a subsequent course. However, the facts of the case in hand are entirely different, as it is not even the case that the applicants were sent for training for the subsequent course, i.e., for another year, or that they had failed to pass the examination in the first attempt. Thus, Rule 303(a) would not be applicable to the case in hand.

17. Furthermore, the respondents-applicants had placed on record the assignment of seniority for the Assistant Loco Pilots while observing the quota-rota system for the year 2009, wherein the date of preparation of panel and inter-se seniority prepared has also been placed on record as Annexures A-12 to A-14 to emphasize that earlier also the same procedure was followed, wherein despite a change of date in sending of the panel, the ALPs who appeared in the limited competitive departmental examination were assigned seniority over the direct recruits. The abovementioned contention has nowhere been denied by the petitioner-Union of India.

18. We see no reason as to why, for the subsequent recruitment year, a different procedure was adopted, which was in the teeth of Rule 302 of the Indian Railway Establishment Manual Vol.I and

also against a settled procedure being adopted by the petitioner-Union of India. This Court thus finds no error in the order dated 21.10.2024 passed by the learned Tribunal.

19. The writ petition, being bereft of merit, is thus dismissed.

20. No order as to costs. All pending applications also stand disposed of.

(SANDEEP SHAH),J

(DR.PUSHPENDRA SINGH BHATI),J

33-Love/-