

Sr. No.	Date	Orders
		<p>* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ CW 3611/2003</p> <p>UOI THR. G.M.NORHTERN RAILWAY Petitioner Through Mr.H.K.Gangwani, Advocate</p> <p>versus</p> <p>S.K.SHANDIL &ORS. Respondent Through Mr.K.N.R.Pillai, Advocate</p> <p>CORAM: HON'BLE MR. JUSTICE B.A. KHAN HON'BLE MR. JUSTICE MUKUL MUDGAL</p> <p style="text-align: right;"><u>ORDER</u> 20.01.2004</p> <p>%</p> <p>Private respondents 1 to 3 filed O.A. No.2160/2001 claiming promotion to the post of Chief Officer Superintendent (COS) in the pay scale of Rs.7450-11500 against three available posts from amongst those who were holding the post of OS Grade-I for which the criterion was seniority-cum-suitability. Their case was that seniority list which was likely to be relied upon by the petitioner herein was required to be quashed in view of the Supreme Court's judgment in "Ajit Singh (II) Vs.State of Punjab"<u>JT 1999 (7) 153</u>. This position was accepted by the petitioners as per impugned order passed by the Tribunal. Naturally therefore Tribunal pursuant to acceptance of this position by petitioners and in reference to identical cases decided by it in O.A.2779, 2782 and 2788/2001 decided on 13th November, 2001 directed the petitioners to recast the seniority list on A-1 by keeping in view the decision of the Supreme Court</p>

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		<p>and then initiate the selection process within three months.</p> <p>It appears that meanwhile 85th Constitution Amendment along with Railway Instructions/circular dated 8.3.2002 were challenged in CW 234/2002 before the Hon'ble Supreme Court in which by way of interim arrangement an order of status quo was passed on 11.11.2002. Pursuant thereto petitioners filed a review application no.176/2002. The Tribunal by impugned order dated 17.3.2003 dismissed the review application on the ground that there was no error apparent on the face of its earlier order dated 29.5.2002.</p> <p>The Petitioners challenge this in the present writ petition. Their case is that consequent upon status quo order passed by the Supreme Court in CW 234/2002 on 11.11.2002, they could not re-cast the seniority list of the contenders in the category of Office Superintendent and in the light of Ajit Singh-II's case as it would tantamount to non-compliance with the Supreme Court order.</p> <p>Notice of this petition was issued to respondents on 15.7.2003 and the operation of the impugned Tribunal order was stayed on that date.</p> <p>Respondents 1-3 who were applicants before the Tribunal are represented by Mr.Pillai, who submitted that petitions had re-cast the seniority list pursuant to the Tribunal order in O.A. 2779/2001 and had also accepted the position in that re-cast list was required to be quashed in the face of Supreme Court judgment in Ajit Singh's case. Having done that they could not now plead their inability to do so by compliance of the impugned Tribunal's order. Mr.Gangwani, counsel for petitioner explains that the earlier action taken by petitioners was prior in point of time to the status quo orders passed by the Supreme Court order dated 11.11.2002. That being so, we deem it appropriate</p>

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		<p>to dispose of this petition by providing as under:-</p> <p>"That impugned order dated 29.5.2002 of Tribunal shall remain in abeyance and shall await the outcome of the Supreme Court decision in CW 234/2002. In case CW 234/2002 is allowed, Tribunal order shall revive and will be subject to remedies to be taken by the parties thereafter."</p> <div style="text-align: right;">  B.A. KHAN, J </div> <div style="text-align: right;">  MUKUL MUDGAL, J </div> <p>JANUARY 20, 2004 mg</p>