



## FEDERATION OF RAILWAY OFFICERS' ASSOCIATIONS

S.No. 10

President  
**RAJIV CHAUDHRY**  
MTNL : 23386334

Secretary General  
**P.K. SINHA**  
MTNL : 23382320

No. 2017/FROA/1

Dated: 19/05/2017

To  
**Chairman**  
Railway Board  
New Delhi

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**Sub. : Recasting of inter-se seniority of directly recruited Group-A officers vis-a-vis Promotees : implementation of the judgement of Hon'ble Supreme Court in Civil Appeal No. 7514-7515/2005/N.R. Parmar Vs UOI & others dated 27/11/2012**

Ref. : 1) DOPT OM 20011/1/2012-Estt. (D) dated 04/03/2014.

2) Judgement of Hon'ble CAT Patna in OA/050/00460/2015-R.K. Kushwaha Vs UOI dated 03/05/2016.

3) Judgement of Hon'ble High Court Patna in No. CWJC/10669/2016 dated 12/05/2017.

Dear Sir,

1. Hon'ble Supreme Court in its land mark judgement delivered on 27/11/2012 has laid down the principles in which the inter-se seniority between Group-A direct recruits will be fixed vis-a-vis promotees. DOPT vide its OM dated 04/03/2014 at reference-1 above has circulated the administrative order of Government of India to all Ministries and departments to implement the judgement of Hon'ble Supreme Court and the procedure how such implementation will be undertaken. DOPT has also mandated a cut-off date of 27/11/2012. Ministry of Railways (Railway Board) did not implement the judgment of Hon'ble Supreme Court as circulated by DOPT under the pretext that the Ministry of Railways can have its own separate rules governing seniority of Group-A services based on a proviso in DOPT's OM of 22/12/1959.

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2. Railway Board based its views on the premise that DOPT's OM dated 04/03/2014 is a clarificatory advisory of the previous OM dated 22/12/1959. On the other hand DOPT's OM dated 04/03/2014 takes note of *"divergent stance taken by different Ministries and Departments"* and states that *"The matter has been examined the pursuance of Hon'ble Supreme Court judgement on 27/11/2012, in Civil Appeal No. 7514-4515/2005 in the case of N.R. Parmar Vs. UOI & Ors in consultation with the Department of Legal Affairs and it has been decided, that the manner of determination of inter-se-seniority of direct recruits and promotes would be as under"*.
3. Thus DOPT's OM dated 04/03/2014 is a fresh administrative decision of Govt. of India binding upon all Ministries and Departments including Ministry of Railways (Railway Board). Unlike the OM dated 22/12/1959, the OM dated 04/03/2014 does not provide any window to Ministry of Railways (Railway Board) to have a separate policy. Moreover, OM dated 04/03/2014 has been issued in pursuance of Hon'ble Supreme Court's judgment dated 27/11/2012 and hence Railway Board does not have any lawful escape route.
4. Ministry of Railway (Railway Board) is part of Govt. of India and the law as pronounced by Hon'ble Supreme Court and administrative rules circulated by DOPT relating to Group-A services must be followed by all Ministries and departments including Ministry of Railway (Railway Board). Delay in implementation of DOPT's OM has led to grievances amongst directly recruited Group-A officers in Junior Scale, Senior Scale and JAG and some of the them have undergone the painful process of seeking judicial redress. Hon'ble CAT/Patna (Reference-2) has set aside the position taken by Railway Board and has directed Railway Board to recast inter-se-seniority as per DOPTs OM dated 04/03/2014. Now Hon'ble High Court Patna has also upheld the judgement of Hon'ble CAT Patna (Reference-3).
5. FROA urges Railway Board to desist from taking position contrary to DOPT's OM in law courts particularly when DOPT has issued orders after consulting Department of Legal Affairs and in pursuance of a land mark judgment of Hon'ble Supreme Court as such divergent position not only leads to embarrassment to Railway administration due to its repeated judicial rejection but prolongs the pain and anguish of directly recruited Group-A officers.

6. Hence Railway Board is requested to immediately bring out necessary office order applying the OM of DOPT dated 04/03/2014 on Group-A Railway Services mutatis mutandis as the same has been issued in pursuance of the judgement of Hon'ble Supreme Court dated 27/11/2012 and recast the inter-se-seniority of directly recruited Group-A officers vis-à-vis promotes with the notified cut-off date of 27/11/2012.

  
19/5/17

President/FROA

  
19/5/17

Secretary General/FROA

Copy to:

- 1) ✓ PS to MR : for kind information of Hon'ble Minister of Railways
- 2) ✓ Secretary, Department of Personnel and Training, North Block, New Delhi
- 3) ✓ MS, FC, ME, MRS, MT, MTR, Railway Board
- 4) ✓ Secretary Railway Board
- 5) ✓ EDF(E), EDE(GC), ED/IR and JS(E), Railway Board.