

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated Tuesday the 2nd day of June Two Thousand And Twenty

PRESENT:

THE HON'BLE MR. P. MADHAVAN, MEMBER(J)
THE HON'BLE MR. T. JACOB, MEMBER(A)

O.A.310/371/2018

Tijo Kuriakose,
Tech Gr.I, Y&TD 2680
Y&TD Shop/LW/PER
Chennai Division
Southern Railway.Applicant

(By Advocate: M/s. Ratio Legis)

Vs.

1. The Union of India Rep. by
The General Manager
Southern Railway,
Chennai-3;
2. The Workshop Personnel Officer,
Loco Works, Perambur.

.....Respondent.

(By Advocate: M/s. K. Vijayaraghavan)

O R D E R

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

The applicant in this case seeks the following relief:-

"To call for the records related to the impugned order No. LW/P(S) 535/Y&TD dated 20-01-2018 made by the 2nd respondent and to quash the same and further to direct the respondents to restore the promotions and to pass such other order/orders as this Hon'ble Tribunal may deem fit and proper and thus to render justice."

2. The brief facts of this case is as follows:-

The applicant was a 'Khalasi' in the Railways. He was a Substitute Helper and posted to Yard Shop at the Loco Works. He attained temporary status and was absorbed as 'Helper Gr.-II'. He appeared for the trade test for promotion as 'Technician Grade-III' and he was promoted as 'Technician Grade III' as per order dated 13.09.2012 (Annexure-A1). Thereafter, he was promoted as 'Technician Grade II' and then to 'Grade I' on 11.5.2017. Thereafter, in October 2017 a show cause notice was issued to him stating that his selection is affected by irregularities and his promotions will be cancelled (Annexure-A2). Though he gave his replies to it, respondents had cancelled his promotion to the post of Technician Gr. III and consequent

promotions and reverted to 'Helper Level-I' as per order dated 08.12.2017(Annexure-A/4). The applicant filed OA 1945/2017 and the Tribunal directed the respondents to consider the representations of the applicant and pass a speaking order. The respondents passed the impugned order rejecting the representation on 20.01.2016 (Annexure-A6). The applicant seeks to quash the impugned order and restore the promotion given to him.

3. The respondents appeared and filed detailed reply stating that the Vigilance had conducted an enquiry into some alleged malpractices and they found that the marks given to the applicant was found corrected in order to make the applicant pass in the test. According to the respondent, they had initiated disciplinary proceedings. Since the selection of the applicant became ***ab initio invalid***, the applicant was reverted to his original post of Helper.

4. The counsel for the applicant mainly relied upon Master Circular 37 para 6.8 & 6.9 and 6.10 to contend that after approval of the select list and giving promotions, it is not proper to revert him after more than five years. The appointment should have been reviewed within one year (para 108 IREM) or before the completion of probation.

5. But, the counsel for the respondents would contend that this is not a case where an employee is promoted properly and he was permitted to continue as such. The provisions quoted by the applicant has no applicability as the selection of the applicant was found irregular and promotions had become ***ab initio invalid***. The respondents mainly rely on Para 219(1) of IREM for the action taken in this case:-

"After the competent authority has accepted the recommendations of the Selection Board, the names of candidates selected will be notified to the candidates. A panel once approved should normally not be cancelled or amended. If after the formation and announcement of the panel with the approval of the competent authority it is found subsequently that there were procedural irregularities or other defects and it is considered necessary to cancel or amend such a panel, this should be done after obtaining the approval of the authority next higher than the one that approved the panel."

6. On going through the photocopy of 'Marks list' of the applicant, it is clear that marks are added after 1st evaluation and he was passed in the Trade test. When it was brought out that the selection list has become *ab-initio invalid* due to the illegalities committed, the rules quoted by the applicant has no bearing in this case. There is nothing wrong in invoking the provision in Para 219(1) of IREM in such a situation. We cannot

find any illegality or arbitrariness in cancelling the promotion given in this case. When the promotion to Technician Grade III became illegal, all further promotions given also has to fall down. We find no reason to interfere in the impugned orders passed by the respondents.

7. Hence OA is dismissed. No costs.

(T. JACOB)
MEMBER(A)

(P. MADHAVAN)
MEMBER(J)

02.06.2020

Asvs