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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 616/2001

New Delhi, this the 19th day of December, 2001

HON'BLE SH. V.K. MAJOTRA, MEMBER (A)
HON'BLE SH. KULDIP SINGH, MEMBER (J)

Raghubar Ram
S/o Shri Bhola Ram
Indian Railways Central Organisation for Telecom,
Shivaji Bridge,
(Behind Shanker Market)
New Delhi-110 001.

...Applicant

By Advocate Shri Anis Suhrawardy.

Versus

1. Union of India
Through its General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Deputy Chief Signal and Telecommunication Engineer
(MWM)
11, Floor, DRM Exchange Building,
DRM Office,
New Delhi.
3. Chief Project Administrator (CPA)
Indian Railway Central Organisation for Telecom,
Shivaji Bridge,
(Behind Shanker Market)
New Delhi-110 001.
4. General Manager,
Rural Electrification,
Divisional Railway Manager Office,
Nawab Yusuf Road,
Allahabad.

..Respondents

(By Advocate : Shri Rajinder Khatter)

O R D E R

By Sh. Kuldip Singh, Member (J)

Applicant has filed this OA challenging the order dated 19.2.2001 vide which the applicant is being sought to be reverted back to his parent department.

2. The facts in brief are that the applicant was originally appointed as a casual labourer and was absorbed in

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a permanent post of Khalasi w.e.f. 13.6.81 in MWM Organisation of the Railways. On 24.6.98 the applicant appeared in a trade test for the post of Rigger-III which test was duly qualified by the applicant. Thereafter on 20.10.1998 a notice was issued vide Annexure A-5 for the approval of the competent authority and the applicant, who had qualified the test of Rigger was promoted as Rigger III, but at the same time he was transferred as Rigger III vide order No.CPA/IRCOT/CSB/MDLS. The applicant joined the IRCOT which is stated to be a construction unit of the Railways where he is working presently and now vide the impugned order the applicant is being sent back to MWM Organisation vide order dated 19.2.2001 vide Annexures A-1 and A-2.

3. The applicant further submits that there is no reason as to why he should be reverted back to his parent department as it would amount to his reversion without any rhyme or reason. It is also submitted that the applicant became a permanent employee of the respondents and cannot be allowed to be reverted back.

4. The respondents in their reply submitted that IRCOT is a construction organisation of Railways which has no permanent cadre. All posts in the organisation are created on the worth of charge from year to year basis and the staff requirement of the organisation is met through drafting regular suitable employees from open line and they continue to hold their lien for their further advancement in their own parent cadre.

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5. It is admitted that the applicant was initially recruited as Khalasi and then made permanent Khalasi in the Microwave Organisation and subsequently he was trade tested for the post of Rigger III in the grade of Rs. 3050-4590 (RPS) and the applicant qualified but he was posted under CPA/IRCOT and now on completion of work in IRCOT, he has to be reverted to his parent cadre. Thus he is being repatriated to his parent cadre, where he holds the lien.

6. It is further stated that the IRCOT has issued an order dated 23.7.2001 for his reversion to his parent cadre where he holds a lien on the post and grade, i.e., Rigger III Rs. 3050-4590 (RPS). It is denied that he is being reverted back.

7. We have heard the learned counsel for the parties and gone through the records of the case.

8. The learned counsel appearing for the applicant submitted that the moment the applicant has been transferred to IRCOT his lien in the MWM Organisation terminated and he has become a member of IRCOT and he cannot be reverted back. The learned counsel for the applicant further submitted that IRCOT is a permanent organisation and cannot be said to be a temporary organisation.

9. The learned counsel for the applicant further submitted that the matter with regard to the construction unit being a permanent organisation is being pending before the Hon'ble Supreme Court and has also submitted an order showing the proceedings before the Hon'ble Supreme Court where it is mentioned that the petitioners have filed an affidavit that

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the construction division is a permanent organisation and the applicant could be absorbed in the said organisation on permanent basis, where the counsel for the Railways has sought time to put response to the same.

10. Besides that the applicant has also referred to an earlier judgment of Hon'ble Supreme Court in the case of L. Robert D'Souza VS. Executive Engineer, Southern Railway and Another reported in 1982 (1) SCC 645 wherein the applicant who had served in the construction division for about 20 years was transferred to several places but had been denied the status of a temporary and/or regular workman and was treated as a daily rated casual labour wherein certain observation was made by the Hon'ble Supreme Court in para 21 of the judgment that every construction work does not imply project. Project is co-related to planned projects wherein the workman was treated as work-charged. After making these observations and going through some letters the Hon'ble Supreme Court observed that the staff concerned had acquired a status higher than casual labour, say temporary railway servant. It was also observed that construction unit is a regular unit all over the Indian Railways. It is a permanent unit and cannot be equated to project. So relying upon those observations the learned counsel for the applicant submitted that the moment the applicant was transferred to construction division he should be treated as if he is a permanent Rigger III there and he cannot be reverted back to his parent department.

11. As against this the learned counsel for the respondents Shri Rajinder Khatter submitted that the applicant was initially appointed in the Microwave Organisation as casual labourer and then made permanent Khalasi. He was trade

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tested for the post of Rigger III by the Microwave Organisation. His name continues in the list of employees of Microwave Organisation and it was only in his posting order it was mentioned that he was sent to IRCOT for sometime and when the work is not available he could be sent back to his parent organisation. The counsel for the respondents has also produced before us Service Book of the applicant which is being maintained by Microwave Organisation. Thus the counsel for the respondents submitted that the applicant continues to remain on the cadre of Microwave Organisation and he cannot be treated as if he had been posted permanently in the construction division.

12. To our mind also the case law cited by the learned counsel for the applicant does not help the applicant at all. The judgment in the case of D'Souza (Supra) relied upon by the applicant is distinguishable because in that case the petitioner had continued to work for a period of about 20 years in the construction division but had not been granted temporary status or any other status and he did not belong to any other organisation whereas in this case the applicant had been made permanent Khalasi in the Microwave Organisation. He had been trade tested for the post of Rigger-III in the Microwave Organisation and then after having been declared successful, had been promoted as Rigger III in the Microwave Organisation, so it is a simple case of repatriation to his parent department and there is no case of reversion also, as apprehended by the applicant in his OA. The respondents in their reply have categorically stated that the applicant had been promoted as Rigger III by the Microwave Organisation so the question does not arise at all that he will be reverted back without any rhyme or reason to the post of Khalasi, hence the apprehension of the applicant to that extent is unfounded.



13. Now the question arises whether he can be reverted back to his parent department or not. The service record shows that he continues to be borne on the cadre of Microwave Organisation and had been posted in the IRCOT, a construction organisation, which according to the respondents is a temporary organisation. Thus we find that it is not a case where an employee has not been granted temporary status but the applicant continues to have permanent status in the Microwave Organisation and as such he can be reverted back any time to his parent department.

14. In view of the above, we find that the OA has no merits and the same is dismissed. No costs.

Kuldip Singh
(KULDIP SINGH)
Member (J)

V.K. Majotra
(V.K. MAJOTRA)
Member (A)

Rakesh