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Central Administrative Tribunal
Principal Bench

O.A. No. 1211 of 1999

New Delhi, dated this the 29th February, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri Sukha Singh,
S/o Shri Gian Singh,
Motro Driver under Bridge Inspector (Special),
Northern Railway,
Dayabasti,
Delhi. .. Applicant

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Dy. Chief Engineer, Bridge Line,
Northern Railway,
Lajpat Nagar, New Delhi.
3. The Asst. Bridge Engineer (Special),
Northern Railway,
Lajpat Nagar,
New Delhi. .. Respondents

(By Advocate: Shri B.S. Jain)

ORDER

HON'BLE MR. S.R. ADIGE

Applicant impugns respondents' orders dated 23.3.99 (Annexure A-1). He seeks a direction to respondents not to make any further recoveries, and refund recoveries already made.

2. Admittedly applicant was a casual labourer (Khallasi) on 12.12.79. He contends that he was promoted as Driver on ad hoc basis on 12.5.83 after adjudging his suitability, and impugned order dated

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23.3.99 also reveals that applicant was put to work as Driver w.e.f. 12.5.83. Respondents, however, contend that while working as Casual Labourer (Khallasi) applicant was trade tested on 15.7.87 (Annexure R-2) and was found fit to work as driver and was accordingly put to work as driver (Rs.950-1500) on ad hoc basis against a work charged post w.e.f. 15.7.87 and he is still working as driver and is being paid in the grade.

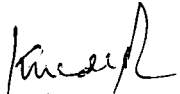
3. Respondents assert that applicant is not entitled to any benefits of his working as Driver prior to 15.7.87.


4. Respondents' own order dated 23.3.99 makes it clear that applicant was put to work as driver w.e.f. 12.5.83. This was not any short term arrangement, because applicant continued to work as driver right until 18.7.87 and indeed even till this date is continuing as driver. In the particular facts and circumstances of this case, applicant was entitled to the pay of the post on which he was working i.e. that of driver from the date he commenced discharging the duties of the post of driver i.e. 12.5.83 but respondents after paying him his pay and allowances for that post have proceeded to make recoveries from him, and that too without giving him a show cause notice, although such action visits civil consequences upon him.

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5. Applicant's counsel has cited Bhagwan Shukla's case SLJ (1995) 2 SC Page 30 and he is right when he states that in the background of that the impugned order dated 23.3.99 to the extent that it orders recoveries from applicant's salary cannot be sustained in law.

6. Under the circumstances, the O.A. succeeds and is allowed to the extent that the impugned order dated 23.3.99 in so far as it makes recoveries from applicant's pay and allowances is quashed and set aside. Any recoveries already made from applicant's salary as driver shall be refunded to him within two months from the date of receipt of a copy of this order. In case respondents seek to make any recoveries, they shall do so only in accordance with law. No costs.


(Kuldip Singh)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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