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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 721/95

New Delhi, this the 1st day of September, 1999.
HON'BLE MR. JUSTICE R.G.VAIDYANATHA, VICE CHAIRMAN (J)
HON'BLE MR. J.L.NEGI, MEMBER (A)

Sh. Uma Shankar, S/O Sh. Ram
Narain, R/O Railway Quarter
No.E-2/B, C.P.H.Colony, Alambagh,
Lucknow.

-----Applicant.

(By Advocate: Mr.Anis Suhrawardy through
Mr.S.Mehndi Imam)

VERSUS

1. Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. Chief Administrative Officer Construction, Northern Railway, Kashmere Gate, New Delhi.
4. The Deputy Chief Engineer (Constrn.), Northern Railway, Lucknow.

-----Respondents

(By Advocate: None)

O R D E R (ORAL)

By Hon'ble Justice Mr. R.G.Vaidyanatha, VC (J):=

This is an application filed by the applicant challenging the order of reversion. Respondents have filed their reply. Today when the case was called for final hearing, only the learned proxy counsel for applicant was present and addressed the arguments. But we regret to note that the Railway Administration was not represented by any Advocate today. However, after perusing the materials on record, we proceeded to pass orders.

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2. The applicant joined in the Northern Railway and later he was sent to work in the Construction Wing of the Northern Railway. He was working there as Senior Gangman later he came to be promoted as Permanent Way Mistry by order dated 1.6.93. The applicant was discharging his work satisfactorily and he had a very meritorious service record. In spite of that, by order dated 30.1.95, the administration passed the order reverting the applicant to the previous post of Sr. Gangman and this order was given effect to by the local officer as per Memo dated 16.2.95. The applicant made representations directly and even Union took up the cause with the administration but the administration has not given any relief to the applicant. It is alleged that the order of reversion of the applicant is illegal and arbitrary. That some of the juniors of the applicant have been promoted ignoring the applicant. That the order of reversion is contrary to the rules. It is, therefore, prayed that the order of reversion be quashed and the respondents be directed to promote the applicant as Permanent Way Mistry.

3. Respondents in the reply have pleaded that the applicants' promotion was purely adhoc and based on local seniority in the Construction Wing. The applicant who was working in the open line, namely, Parent Divison. He came to Construction line on deputation. The seniority in the construction line is not permanent but it is flexible and subject to fluctuation, depending upon fluctuation in the seniority in the parent division. On the basis of the

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local seniority at the relevant time, the applicant was promoted in 1993. When the construction work is over or project work is over, the official would be reverted and sent back to the parent division. It is stated that Sh. Vishnu Narain and Sh. Mulayam Singh became seniors to the applicant in view of particulars received from the parent organisation. The respondents have given a table of five officials including the applicant, showing that the applicant is at Sr.No.5 and there are four seniors above him. It is, therefore, stated that the order of reversion was purely due to administrative reasons, namely, there being seniors and the applicant could not have been continued on adhoc promotion. That is why he was reverted to provide place for the seniors.

4. Learned proxy counsel for applicant has questioned the correctness and the legality of the impugned order of reversion. He maintained that the applicant has a very meritorious service record, he should not have been reverted and the impugned order is arbitrary and illegal. He also contended that some of the juniors of the applicant were still promoted and they are continuing in the promotional posts. As already stated, we regret to note that the Railway Administration was not represented by any Advocate today, hence, we do not have any assistance in disposing of this application.

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Though the arguments of the learned proxy counsel for the applicant is attractive, namely, a person who has been promoted, should not be reverted, we cannot accept in the peculiar facts and circumstances of this case. If it is a case of regular promotion then the applicant could not have been reverted unless he is found guilty of any misconduct. But in the present case, the applicant's promotion was purely adhoc based on local seniority in the construction wing. The promotion order which is at 14 of the paper book, clearly says that this promotion is purely adhoc, temporary and based on local seniority confined to the construction unit and it will not confer any right on the applicant to claim seniority etc. Therefore, the administration has made it very clear that the promotion was adhoc, temporary and local. Therefore, the applicant cannot get any legal right to continue in the promotion post, unless he is regularly promoted. The respondents have clearly explained that the seniority position of the construction line fluctuates depending upon the position of the employees in their parent division. Respondents have also produced Exhibit R-1 and R-2, the letter dated 25.5.92 by Sr.Civil Engineer (C) to the Chief Administrative Officer/Const., Northern Railway, Delhi. This letter refers to six officials including the applicant. The applicant's orginal appointment was in 1979 whereas all other five officials were appointed much earlier to him. Similarly, even in the next promotion, the applicant got promotion in 1986 as Sr. Gangman whereas all

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other five officials had got earlier promotion. Hence, taking any view of the matter, the applicant cannot be senior to Mr. Vishnu Narain and Mr. Mulayam Singh. It is because of this fluctuated seniority position, the applicant came to be reverted. It is not a case of reversion due to any allegation of misconduct against the applicant. It is a simple case of reversion due to administration reasons. Hence, we do not find any irregularity and illegality in the impugned order.

5. In the result, the application is dismissed. No order as to costs.

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(J.L.NEGI)
MEMBER (A)

R.G.Vaidyanatha
(R.G.VAIDYANATHA)
VICE CHAIRMAN (J)

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