

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(20)

O.A. No. 636 of 1996

New Delhi, dated this the 24th May, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Lokesh Chand,
S/o Shri Ram Gopal,
Sr. Electric Assistant,
Under Chief Crew Controller (Operating),
Northern Railway,
Ghaziabad. ... Applicant

(By Advocate: Shri B.L. Madhok
proxy counsel for Shri B.S. Mainee)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
3. The Chief Crew Controller (Operating),
Northern Railway, Loco Shed,
Ghaziabad. ... Respondents

(By Advocate: Shri O.P. Kshatriya)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated
1.3.96 (Annexure A-1) reverting him from the post of
Senior Electric Assistant (Rs.1200-20400 to that of
Electric Assistant (Rs.950-1500) and ordering
recovery of excess pay & allowances through
adjustment.

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2. Applicant was appointed as a Loco Cleaner on 20.6.79 and was promoted as 2nd Fireman in terms of respondents' order dated 24.2.88 (Annexure A-2). Admittedly thereafter, respondents issued notice dated March, 90 (Annexure A-3) in which 22 Second Firemen were shown as promoted to First Firemen in which applicant's name was excluded although the promotion ought to have been made on the basis of seniority. Applicant states that thereupon he represented on 2.4.90 (Annexure A-4), upon which he was posted as 1st Fireman in May, 1990 (Annexure A-5). Applicant states that thereafter in terms of another notice dated 17.12.95 respondents promoted as many as 110 Diesel Assistants/Electric Assistants (Rs.950-1500) to the post of Senior Diesel Assistants/Sr. Electric Assistants (Rs.1200-2040) in order of seniority with immediate effect in which applicant's name was also included at Sl. No. 88, but thereafter suddenly respondents issued impugned order dated 1.3.96 reverting applicant from the post of Sr. Elec. Assistant (Rs.1200-2040) to that of Electric Assistant (Rs.950-1500) which he alleges is illegal and arbitrary.



3. We have heard Shri Madhok proxy counsel for Shri Mainee for applicant and Shri Kshatriya for respondents. Applicant has also filed written submissions which are taken on record.

4. The main arguments advanced on behalf of applicant is that he is being reverted without notice, and that some of his juniors including S/Shri Ishwar Das, Kishan Lal and Pyare Lal had not been reverted, although respondents had stated that their reversion was being contemplated. It was also contended on applicant's behalf that the decision dated 29.11.99 in O.A. No. 266/96 relied upon by respondents in which the present applicant was also one of the applicants had no bearing on the facts and circumstances of the present case.

5. Shri Kshatriya, however, urged that applicant's promotion by order dated 17.12.95 was made out of sheer ⁱⁿadvertence which were promptly corrected by impugned order dated 1.3.96. In this connection he relied upon the Tribunal's aforesaid order dated 29.11.99 in O.A. No. 266/96 which was filed by present applicant and others who are promotee Diesel Assistants claiming seniority over certain direct recruits in the seniority list of diesel assistants, which was dismissed on 29.11.99

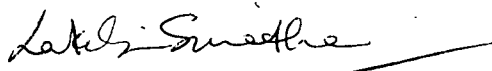
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after hearing both sides, on merits as well as on account of laches and non-joinder of necessary parties. He stated that in the light of the rejection of applicant's claim in that O.A. for seniority above the directly recruited Diesel Assistants, his challenge to the impugned order dated 1.3.96 deserved to be dismissed.

6. We have considered the matter carefully.

7. The order dated 19.12.95 promoting applicant as Sr. Diesel/Sr. Electrs. Assistant does not state that it was on ad hoc basis. Whatever reasons might have influenced respondents to issue impugned order dated 1.3.96, it has visited civil consequences upon applicant and should not have been issued without giving applicant a reasonable opportunity to show cause against reversion.

8. Under the circumstances the O.A. succeeds and is allowed to the extent that impugned order dated 1.3.96 is quashed and set aside. If respondents seek to revert applicant they shall do so only after giving applicant reasonable opportunity to show cause against reversion, and while disposing of his reply, if any, also deal with his contention that while he is being reverted, persons ^{whom} ~~w/~~ he claims are his juniors, namely, S/shri Ishwar Das, Kishan Lal and Pyare Lal, have not been reverted. No costs.



(Mrs. Lakshmi Swaminathan)
Member (J)

/GK/



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