

## CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2019/97

New Delhi, this 23rd day of May, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
 Hon'ble Smt. Shanta Shastry, Member(A)

Prakash Baboo  
 144A, Civil Lines  
 Malgodown Road, Bareilly .. Applicant

(By Shri K.K.Patel, Advocate)

versus

Union of India, through

1. General Manager  
 Northern Railway  
 Baroda House, New Delhi
2. Senior Section Engineer(C&W)  
 Northern Railway  
 Bareilly
3. Divisional Railway Manager  
 Northern Railway  
 Moradabad, U.P. through APO(M) .. Respondents

(By Shri R.L.Dhawan, Advocate)

ORDER(oral)

Hon'ble Smt. Shanta Shastry

The applicant is challenging the impugned order dated 22.8.97 by which he was reverted to the original post of Helper Khalasi (HK, for short) in the grade of Rs.800-1150.

2. The brief facts are that the applicant joined the Railways as Safaiwala in the scale of Rs.750-940 in the Carriage & Wagon Department. The channel of promotion in the Department for Artisan staff in C&W department is as follows:

1. C&W Khalasi/Safaiwala/Cleaner in the grade Rs.750-940 - by trade test.
2. Helper Khalasi/Safaiwala-Jamadar Grade Rs.800-1150 - by trade test



3. C&W Fitter Gr.III Rs.950-1500 - by trade test

4. C&W Fitter Grade II Rs.1200-1800 - by trade test

3. The applicant was sent for promotional training by the respondents and after completion of training he was spared for the trade test for the post of Carriage Jamadar (CJ, for short) on 18.9.96. Thereafter he was called for the interview and was declared successful vide order dated 24.9.96. Subsequently he was promoted to the post of CJ in the pay scale of Rs.950-1500 and was posted at Bareilly vide order dated 19.11.96. While at Bareilly, he was served with a show cause notice dated 2.4.97 purporting to withdraw the promotion granted to him in the scale of Rs.950-1500. He was informed that the post of Safaiwala Jamadar was treated as semi-skilled in the scale of Rs.800-1150 on the basis of the letter of respondent No.1 dated 4.1.88 and therefore the promotion given wrongly is being withdrawn.

4. Applicant gave a representation against this on 24.4.97. He also approached this Tribunal through OA No.1194/97 which was disposed of on 21.5.97 being pre-mature. He had not been reverted at that time. Thereafter, the applicant was reverted by the impugned order dated 22.8.97. Aggrieved by this, the applicant has preferred the present OA.

5. Learned counsel for the applicant has contended that the applicant was duly promoted after being successful in the trade test and the interview. He had also undergone promotional training. The letter dated 4.1.88 on the basis of which respondents decided to revert him also lays down that those Safaiwala Jamadars who were

already getting the grade of Rs.260-400 (Rs.950-1500-revised pay scale) (meant for skilled grade) on some of the divisions will however continue to retain in this grade. Their seniority in the category of skilled fitter grade III should be assigned in the grade of Rs.260-400 as safaiwala jamadar or skilled fitter Grade III as the case may be. Thereafter promotion in the skilled grade II onwards may be only after their passing the trade test for C&W fitter grade II/Grade I as the case may be. As and when vacancy of Safaiwala Jamadar Grade Rs.260-400 (RS) in the said division becomes available on promotion of safaiwala jamadar in skilled grade III, the said vacancy shall be filled in semi-skilled grade HK i.e. Rs.800-1150 (RPS) and not in the skilled grade of Rs.950-1500. Learned counsel further argued that this very policy has been continued vide letter dated 8.10.91 of the respondents and it is binding on them. Therefore applicant should not have been reverted but should have been allowed to retain the grade of Rs.950-1500. According to the applicant, as per policy of 13.2.88, Jamadar safaiwala has been granted skilled status. Respondents had full knowledge of the factual position regarding vacancies existing in that they held trade test and interview of the applicant for the post of CJ.

6. Learned counsel for the respondents rebutted the stand and submits that there is no post of CJ or safaiwala jamadar in the grade of Rs.950-1500 in the C&W department. The said category in the grade of Rs.800-1150 has a separate channel of promotion and that is to the post of C&W fitter Grade III in the scale of

Rs.950-1500, along with C&W HK in the grade of Rs.800-1150. The promotion given to the applicant therefore was wrong and the same is being rectified.

7. According to the respondents, the applicant who was holding the post of safaiwala was deputed along with other staff to attend promotional training course and trade test vide order dated 18.5.96 and was later wrongly promoted as CJ in the grade of Rs.950-1500. Since natural justice demanded that the applicant should be given notice before he was reverted to the post of Safaiwala, a show cause notice has been issued and thereafter the applicant has been reverted. Respondents are therefore within their right to rectify the administrative error committed by them.

8. We have heard both the learned counsel for the applicant and the respondents and have given careful consideration to the pleadings and submissions made ~~made~~ by them. Although the respondents claim that the promotion to the applicant was erroneous the factual position is that the applicant was sent for promotional training course, he was deputed for the trade test and after successful completion he was given promotion whether wrongly or rightly. It is clearly mentioned in the letter dated 24.9.96 wherein results have been communicated that following helper safaiwalas have been declared successful who appeared in the trade test held on 17.9.96 and 21.9.96 for the post of CJ in the scale of Rs.950-1500. It is therefore unfair to deny the said <sup>promotion</sup> ~~post~~ to the applicant and to revert him.

9. Learned counsel for the applicant has relied on the judgement in the case of Smt. Parvati Devi Vs. UOI in OA 1344/97 decided on 4.11.97. In that case, the applicant was originally a peon in the scale of Rs.750-940, had completed trade test prescribed for the post of HK in accordance with the rules and has qualified and thereafter appointed in the next scale of Rs.800-1150. Respondents found that the applicant had been wrongly promoted as HK and a show cause notice was issued ordering reversion. The court held in that case that the applicant shall be considered as unskilled staff and therefore reversion order could not stand at all. After respondents had given promotion to the applicant after completion of the formalities in accordance with the rules, reversion on the ground of erroneous promotion was not considered legal. The case of the applicant in the present OA is on the same footing as that of Parvati Devi (supra). In our view, respondents were not justified in reverting the applicant at this stage after promoting him after completion of all the formalities. We therefore set aside the impugned order dated 22.8.97 and direct the respondents to continue the applicant in the grade of Rs.940-1500 if necessary by classifying CJ as skilled grade from the date the applicant occupied the post or by giving any other suitable designation for that scale. Accordingly the OA is allowed. We do not however order any costs.

*Shanta*

(Smt. Shanta Shastri)  
Member(A)

*V. Rajagopala Reddy*

(V. Rajagopala Reddy)  
Vice-Chairman(J)

/gtv/