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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA.No.1037/89

New Delhi, dated this the 29th of July, 1994.

Shri N.V. Krishnan, Hon. Vice Chairman(A)  
Shri C.J. Roy, Hon. Member(J)

Shri Mohinder Singh  
S/o Shri Ramji Lal  
aged 31 years,  
R/o Gour Karm Road,  
Near Gour School,  
Rohtak  
Working as  
Store Issuer under  
Permanent Way Inspector-II  
Northern Railway,  
Rohtak

...Applicant

versus

1. Union of India through  
General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
  2. Senior Divisional Personnel Officer,  
Northern Railway,  
Divisional Rail Manager Office,  
Chelmsford Road, New Delhi
- ...Respondents

ORDER (oral)

By Hon'ble Vice Chairman Shri N.V. Krishnan.

Neither the applicant nor the respondents,  
nor their counsel present, though called twice.  
In view of the fact that this matter is listed  
at Sl.No.8 of the regular list with a note  
regarding peremptory disposal, we have perused  
the record and proceed to dispose of by passing  
an order.

2. The applicant was promoted as Store Issuer  
under PWI-II, Rohtak by the Assistant Engineer,  
Northern Railway, Rohtak by Annexure A-2 order  
dated 5.12.85. By the impugned Annexure A-1  
order of the Senior Divisional Personnel Officer,

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New Delhi dated April 1989, a direction has been issued that the staff who have been put to officiate as MCE grade Rs.950-1500 but their services has not yet been regularised be reverted at once under advice to that office. Being aggrieved by this order, the applicant has sought a direction to quash it. He has also sought a direction to quash the panel of 55 persons and 41 persons notified by the Annexure A-5 and A-6 letter.

3. When the application was admitted, an interim order was passed on 2.6.89 that any promotion made will be subject to the decision in this case. This was amplified on 3.6.89 to the effect that the applicant may not be reverted unless he is replaced by a regularly selected person.

4. The respondents have filed a reply, in which, it is pointed out that the appointment of the applicant is made by the Assistant Engineer by way of local arrangement. This is made clear in the following reply to paras 4.6 to 4.10 of the OA.

"Contents of para 4.6 to 4.9 of the application except those that are a matter of record, rest of paras are wrong and are denied. It is denied that any rules have been breached or that any eligible staff had been ignored, as alleged. The allegations in para under reply are vague, bald and devoid of any material particulars besides the fact that the same make no sense. In any case it is further submitted that the applicant has no concern with the same in as much as the applicant was not entitled to be called for the selection as only those persons who were promoted by the DRM officer, New Deli, the competent authority, were entitled to and could be and were called and the applicant was only posted locally by the AEN/ROK on local arrangement in the absence of MCC appointed by DRM office/ New Delhi and as such neither he was entitled

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to be included in the seniority list made by DRM office nor entitled to be called for selection. The applicant is deliberately trying to unnecessarily confuse the issues with malafide intention.

4.10. As regards contents of para 4.10 of the application it is submitted that for the post of MCC there is a selection test in which first written test has to be cleared and then successful candidates have to appear in viva voce. Rest of the para is denied as stated."

In the circumstances, the respondents contend that the applicant was not entitled to be included in the seniority list for the purpose of preparation of the panel nor was he entitled to be called for selection. The applicant has no right to the promotion, and therefore, the reversion order could not be faulted.

5. We have carefully perused the records. Admittedly, the applicant's appointment is by as Assistant Engineer, whereas, the competent authority to make the appointment is the DRM. That being the case, the applicant cannot get the benefit of that appointment for either regularisation or for inclusion in the panel. Therefore, this application is liable to be dismissed. However, a direction has already been issued that he shall not be replaced by any adhoc appointee until a regularly selected candidate is available. Respondent have not made any submissions in this behalf. We are therefore, of the view, that such a protection should continue to be in force if this <sup>condition</sup> ~~contention~~ is satisfied.

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6. In the circumstances, we dismiss this application but direct that the applicant shall not be reverted unless it is to enable the appointment of regularly selected <sup>ed</sup> person on that post, as already ordered on 13.6.89. The OA is disposed of accordingly.

*[Handwritten signature]*  
(C.J. ROY  
MEMBER(J)

*[Handwritten signature]*  
28.7.89  
(N.V. KRISNAN)  
VICE CHAIRMAN(A)

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