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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.639/88

Date of decision: 9.9.1993.

Shri Mohinder Singh

...Petitioner

Versus

Union of India through the
General Manager, Northern
Railway, New Delhi & Anr.

...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri G.S. Beqrar, Counsel.

For the respondents

Shri Romesh Gautam, Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

We have heard Shri G.S. Beqrar and Shri Romesh Gautam, learned counsel for the petitioner and respondents respectively.

2. The case of the petitioner is that while working as a Gateman on the Northern Railway he was selected for appointment as Ticket Collector in October, 1979. He has since then continued to work as Ticket Collector, till order of reversion was passed by the respondents on 18.1.1988. The petitioner approached the Tribunal through this O.A. filed on 14.4.1988 when an interim order was made in his favour on 19.4.1988 to the effect that status quo be maintained till then. By virtue of this interim order the petitioner has continued to officiate as Ticket Collector. The learned counsel for the petitioner submitted that the petitioner was selected by the respondents in a suitability test and was imparted 14 days training before he was appointed as Ticket

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Collector. He has continued to work as Ticket Collector and, therefore, he cannot be reverted. According to the Rules, an official who has continued to work in a higher post for more than 18 months cannot be reverted.

3. The stand of the respondents articulated by Shri Romesh Gautam, learned counsel is that the post of Ticket Collector is a selection post and is to be filled up in accordance with the procedure laid down in paragraph-189 of the Indian Railway Establishment Manual, Volume-I. The provisions made in paragraph-189 stipulate that:-

"189. Promotion to higher grades in Group 'C':-
(a) Railway servants in Group 'D' categories for whom no regular avenue of promotion exists 33-1/3% of the vacancies in the lowest grade of Commercial clerks, Ticket Collectors, Trains Clerks, Number Takers, Time Keepers, Fuel Checkers, Office Clerks, Typists and Stores Clerks etc. should be earmarked for promotion. The quota for promotion of Group 'D' staff in the Accounts Deptts. to Group 'C' post of Accounts Clerks will be 25%."

The petitioner in this case has not gone through the selection as provided in the statutory rules. Admittedly, he qualified in the suitability test and ^{was} imparted 14 days training but this was only for making ad hoc arrangement. In fact the order dated 19.10.1979 appointing the petitioner as Ticket Collector clearly specifies that his appointment is purely as a temporary measure on ad hoc basis "till he is replaced by senior and selected hand." The learned counsel submitted that on 18.1.1988

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when a duly selected hand became available an order was issued to revert him. He, however, continued to officiate by virtue of the interim order passed by the Tribunal. The petitioner had appeared in the selection test held in 1982 but he failed to make the grade. In these circumstances he cannot be continued as Ticket Collector. The learned counsel drew our attention to the Full Bench Judgement of the Tribunal in the case of Sh. Jetha Nand and Ors. v. Union of India & Ors. T-844/86 decided on 5.5.1989, as supplemented by the subsequent judgement of the Full Bench in Suresh Chand Gautam and Ors. vs. Union of India & Ors. reported in Full Bench Judgements of C.A.T 1989-91 Vol.II 487 it has been held that:-

"a Class IV employee officiating in Class III post for more than 18 months failed to qualify in the selection test, he is liable to be reverted even after 18 months without following the procedure laid down in the Railway Servants (Discipline & Appeal) Rules 3 or more opportunities or several opportunities may be given to the Class IV Railway Employees officiating in Class III post to qualify in the selection test. But when fully qualified candidates or persons regularly selected by the Railway Service Commission are waiting to be appointed to the regular vacancies the Class IV employees officiating in those posts even though for a period exceeding 18 months can have no right to hold those posts. They have to be reverted if necessary for the appointment of the qualified candidates. In Jetha Nand's case the Full Bench has not stated that even when regularly selected and fully qualified candidates are available, those

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who have failed to qualify in the selection test should be allowed to officiate in the Class III posts blocking the entry of the regularly selected candidates. Such a view would be putting premium on inefficiency which has never been intended in the judgement in Jetha Nand's case. Therefore, we hold that the Railway servant who is allowed to officiate in the higher post on temporary basis need not always be allowed at least three or more opportunities to appear and qualify in the selection for higher post before he can be reverted without following the procedure prescribed under the Railway Servants (Discipline and Appeal) Rules, 1968 and that he can be reverted if such reversion is warranted for administrative reasons, such as for appointment of regularly selected qualified candidates."


The submission made by the learned counsel for the petitioner that the petitioner should not be reverted unless three or more opportunities ^{are} given to him for passing the selection examination is also answered by the Full Bench. It has been held that three or more opportunities or several opportunities may be given to Class IV employees officiating in Class III posts to qualify in the selection test, but, when fully qualified candidates or persons regularly selected by the Railways are waiting, the Class IV employees officiating even though for a period of over 18 months can have no right to hold those posts. The petitioner was ordered to be reverted vide order dated 18.1.1988 only because a duly selected candidate Shri Satish Chand was available.


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4. In view of the above, the petitioner cannot continue to officiate as Ticket Collector when he failed to qualify in the selection examination held by the respondents in accordance with the rules. The mere fact that he has officiated for almost 9 years and over 18 months also cannot rescue him from reversion as long as there is a duly selected hand available. His reversion, however, is no bar for his appearing again in the selection examination as and when it is held and qualify in the same to seek promotion to the said post. In the above conspectus of the facts, we do not find any merit in the O.A. and the same is accordingly dismissed. No costs.

5. We, however, make it clear that the petitioner shall be reverted only if a duly selected candidate or a selected candidate recommended by the Railway Service Commission is waiting for appointment at present or later.


 (B.S. HEGDE)
 MEMBER(J)


 (I.K. RASGOTRA)
 MEMBER(A)

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