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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 1048/90

New Delhi, this 23rd day of August, 1995

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K. Ahooja, Member(A)

Manohar Lal Srivastava
Kumhar Mohalla,
Arya Nagar, Ajmer
By Shri S.K. Gupta, Advocate .. Applicant

versus

Union of India, through

1. General Manager
Western Railway, Church Gate, Bombay
2. Chief Works Manager
Western Railway, Loco Workshop, Ajmer
3. Raghuvir Prasad)All working in Loco
4. Ramesh Chandra)Workshop, Western
5. Daulat Singh)Railway, Ajmer .. Respondents

By Shri P.S. Mehandru, Senior Railway Counsel

ORDER(oral)

Shri A.V. Haridasan

The challenge in this OA is against the order dated 17.5.90(Annexure A-I), of the second respondent reverting the applicant from the post of Painter Grade II(PG II in short) to Khalasi and order dated 19.5.90 (Annexure A-II) by which the order dated 17.5.90 was slightly modified to show that the reversion was to the post of Painter Grade III(PG III in short). The facts can be briefly stated as follows.

2. The applicant, who was initially appointed as Khalasi with effect from 8.11.77 was, on being successful in the trade test, promoted to the post of PG III vide order dated 27.8.83. Thereafter, on being successful in further trade test for the post of PG II in the scale of Rs.1200-1800, the applicant was by order dated 7.10.88 (Annexure A-5) promoted as PG II. The 3rd respondent was promoted as PG II only on 23.1.89 while the applicant was continuing as PG II with effect from

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8.10.88, all of a sudden without giving the applicant any notice, he was reverted by Annexure A-I order initially to the post of Khalasi which was later modified by Annexure A-II order making reversion to the post of PG III, for the alleged reason that he was the junior most. Impugning these orders, the applicant has filed this application praying that the impugned orders may be quashed. Respondents No.3 to 5, according to the applicant, are junior to him to him as the third respondent was promoted as PG II after his promotion and as respondents 4 and 5 are still PGs III.

3. Respondents No.1 & 2 have filed a reply. They have contended that the applicant's promotion to PG III as also that to PG II were only ad hoc. They further contend that as a result of settlement between the Union and the Railway Administration it was decided that Khalasi promoted as Painter would rank junior to Painter Brush Hand, who have been redesignated as PG III by order dated 5.3.83 with effect from 1.1.78 and for this reason the applicant while promoted to the post of PG III ranked junior to Respondents 3 to 5. Respondents No.1 & 2 therefore contend that the application is devoid of merits and therefore has to be dismissed.

4. Respondents 3 to 5 contend that they were appointed as PG III regularly on redesignation while they were initially appointed as Painter Brush Hand and therefore the claim of the applicant for seniority above them is unsustainable.

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5. When the application came up for hearing, none appeared for Respondents 3 to 5. Shri S.K.Gupta appeared for the applicant and Shri P.S.Mehandru for Respondent 1 & 2. After hearing the learned counsel for the parties and after perusing the pleadings and the material available on record, we are of the considered view that the impugned orders passed without giving the applicant notice before he was reverted from the post he has been holding since 1988 is opposed to the principles of natural justice and bad in law. The order by which the applicant was promoted as PG II dated 7.10.88 (Annexure A-V) shows that the applicant was temporarily promoted as PG II in the scale of Rs.1200-1800 on the basis of common seniority on provisional basis subject to result of the case pending before the Hon'ble Supreme Court as also the Jodhpur Bench of the Administrative Tribunal. In the impugned order it has not been stated that the reversion was necessitated on account of the decision of any court case. While the order at Annexure A 5 by which the applicant was promoted to PG II states that the promotion was on the basis of common seniority, it is not known how suddenly the applicant has become junior most. The decision referred to in the reply statement of Respondents 1 & 2 taken after consultation with the Union to place the promotees to the post of PG III below the redesignated PG III was available at the time when the order dated 7.10.88 by which the applicant was promoted on the basis of common seniority in the post of PG III. It is borne out by the pleadings that the 3rd respondent was promoted as PG II after the applicant was so promoted. Since the applicant has been continuing as PG II, if any reversion is warranted on account of reduction in number of posts or abolition of

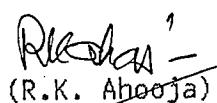
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the post or for any reason like change in seniority, the respondents could have resorted to reversion of the applicant only after giving an opportunity to show cause against. This not having been done, we are of the considered view that the impugned orders are liable to be set aside.

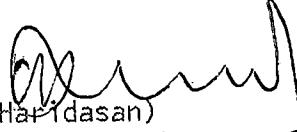
6. In the light of what is stated in the foregoing paragraphs, we set aside the impugned orders as unsustainable in law and opposed to principles of natural justice. Therefore, we direct the respondents to reinstate the applicant in the post of PG II treating that despite the impugned orders he continued to perform his duty as PG II with all consequential benefits including difference in pay and allowances, The above said direction should be complied with within two months from the date of receipt of this order.

7. We make it clear that if for any reason, the respondents consider it necessary to revert the applicant, they may do so only after serving him a notice and opportunity to be heard and in accordance with law. ~~accordance with law, but only after giving the applicant a reasonable opportunity to put forth his case.~~

8. The OA is thus disposed off. No costs.


(R.K. Ahoja)
Member(A)
23.8.95

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(A.V. Haridasan)
Vice-Chairman(J)
23.8.95