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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.1398/90

New Delhi: this the 10th day of July, 1997.

HON'BLE MR. S. R. ADIGE MEMBER (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN MEMBER (J)

Shri Ghan Shyam Singh,
Clerk, under Loco-shed,
Northern Railway,
Lakshar

.... Applicant.

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Rly. Manager,
Northern Railway,
Moradabad

..... Respondents.

(By Advocate: Shri P.S. Mahendru)

JUDGMENT

BY HON'BLE MR. S. R. ADIGE MEMBER (A).

Applicant impugns the reversion order dated 18.5.90 (Annexure-A1).

2. Applicant, who was appointed as a Khalasi on 5.1.56, was promoted as a Store Issuer on purely temporary and adhoc basis on 28.5.79. This post is filled on the basis of promotion through selection, and in 1987 selection was held for filling up this post consisting of written test and interview. Applicant along with others was called for the written test, which he cleared. Thereafter he along with others who had cleared the written test were called for interview.

3. When this OA was heard earlier, it had

been represented to the Bench by respondents that applicant had failed in the selection test, and accordingly the OA had been rejected vide judgment dated 25.11.94. Thereafter applicant had filed RA No.42/95 praying for review of the said judgment in which it had been contended that the statement in paragraph 6 of the impugned judgment dated 25.11.94 that applicant had failed to clear the interview was an error apparent on the face of the record within the meaning of Section 22(3)(f) AT Act read with Order 47 Rule 1 CPC. Accordingly, after hearing both parties and perusing the relevant documents in connection with the impugned selection for the post of Store Issuer, this Bench was satisfied that the impugned judgment dated 25.11.94 required review. Accordingly the same was recalled and the OA was listed for rehearing.

4. We have heard applicant's counsel Shri Mainee and respondents' counsel Shri Mahendru. We note that consequent to the impugned selection the aggregate marks obtained by first 5 in seniority order both in the written exam. and viva voce test was as follows:

Sl.No.	Name	Marks obtained out of 100
S/ Shri		
1.	Shyam Swarup	61
2.	Kamal Singh	63
3.	J.S.Shukla	74
4.	Keshav Prasad	62
5.	Ghan Shyam Singh(Applicant)	60

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5. Shri Mainee contended that there was more than 1 post for which the selection was held, but this contention is not borne out by the records which were shown to us which clearly mention that there was only one vacancy, against which Shri Shyam Swarup who secured 61% marks and being seniormost was rightly selected. This is further borne out by the order dated 27.7.87 (Annexure-A) a perusal of which makes it clear that Shri Shyam Swarup was being appointed as Store Issuer against the post held by applicant on adhoc basis.

6. Furthermore, as applicant was facing consequent reversion to his substantive post of Khallasi, respondents by order dated 5.8.87 (Annexure-R2) adjusted him against an equivalent available vacancy of Office Clerk on purely temporary and adhoc basis till such time as the said vacancy was not filled up. The said order dated 5.8.87 made it clear that the appointment was purely temporary and adhoc and would give no right to applicant to claim regularisation or seniority.

7. Thereafter upon a regular incumbent being appointed to that post, applicant was reverted to his substantive post by impugned order dated 18.5.90 (Annexure-A1), and retired on superannuation on 31.10.91.

8. Shri Mainee has contended that applicant could not have been legally reverted from the post of Store Issuer and later from the post of Office Clerk. Various judgments have been cited including the CAT Full Bench

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judgment dated 5.5.89 in Shri Jethanand & Ors.
Vs. UOI & Ors T.A No.844/86 (CAT F.B.Judgments
Volume I, Bahri Bros. Delhi page 353) ATR 1987 (2)
517 M.M.Dutta Vs. UOI; ATJ 1995 (1) 67 B.R.Rahi
& Ors. Vs. UOI and ATJ 1990 (3) page 294.

9. We have considered these rulings but
in the facts and circumstances of this particular
case, we do not find that they advance the case
of the applicant. We have already noticed that
there was only one vacancy ^{of Store Issuer} for which selection
was held and applicant was considered along with
others. In that selection, as per relevant rules,
Shri Shyam Swarup being senior to applicant and in
any case having secured more marks than applicant
was selected and appointed to that vacancy on
regular basis. In State of Haryana Vs. Piara
Singh 1992 (2) SCALE 384 as well in a number of
other judgments the Hon'ble Supreme Court has
categorically held that a person holding a
post on adhoc basis has to make way for a regularly
selected candidate. Accordingly applicant had
to make way for Shri Shyam Swarup against the post
of Store Issuer. As he was facing consequent
reversion respondents adjusted him against ^{available} another/
equivalent post of Office Clerk on adhoc basis till
that post was also filled up on regular basis, and
when a regular incumbent was appointed to that post
also, applicant had to make way for him and to be
reverted vide impugned order dated 18.5.90.

10. Shri Mainee also argued that the competent
authority had issued some instructions to the effect
those Mobile Booking Clerks who had been working on

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ad hoc basis for 3 years continuously should be regularised, and applicant should have been given the benefit of those instructions, but as applicant was not appointed as a Mobile Booking Clerk, it is not possible for us to hold that applicant was entitled to the benefit of those instructions .

11. In the result the OA warrants no interference. It is dismissed. No costs.

Lakshmi Swaminathan

(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

S.R. Adige

(S.R. ADIGE)
MEMBER(A).

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