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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A./T.A. NO. 1997 of 91
/19

Decided on : 1.12.95

praveen Kumar

... Applicant(s)

(By Shri B.S. Mainee
Advocate)

versus

U.O.I. & Ors.

... Respondent(s)

(By Shri P.S. Mahendru
Advocate)

CORAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SHRI~~ DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not ? *yes*
2. Whether to be circulated to other Benches
of the Tribunal ? *yes*

Dr
(DR. A. VEDAVALLI)
Member (J)

Adige
(S.R. ADIGE)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1997/91

New Delhi: ^{Dec} ~~November~~ 1st, 1995.

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

HON'BLE DR.A.VEDAVALLI, MEMBER (J)

Shri Praveen Kumar,
s/o Shri Roshan Lal,
Ticket Collector,
Railway Station,
Ghaziabad

.....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 Railway Manager,
State Entry Road,
New Delhi.

3. Station Superintendent,
Northern Railway,
Ghaziabad.

.....Respondents.

By Advocate Shri P.S.Mahendru.

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member(A).

In this application Shri Praveen Kumar has impugned the order dated 22.8.91 (Annexure-A1) reverting him from Booking Clerk to Khalasi and sought for continuance and regularisation as Booking Clerk .

2/ The applicant who joined the railways as a daily wages Casual Labourer on 22.6.76 and was regularised as Goods Khalasi w.e.f. 30.8.79, was promoted as a Ticket Collector against leave

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vacancy at Shamli vide order dated 15.1.88 (Annexure-A6), and thereafter continued to work as Ticket Collector on adhoc basis vide order dated 5.4.88 (Annexure-A5). It appears that apprehending reversion, the applicant filed an O.A.No.1293/90 and on 3.7.90 the Tribunal directed maintenance of the status quo. That O.A. was subsequently withdrawn when the respondents admittedly undertook before the Tribunal not to revert the applicant. Inspite of that the applicant alleges that the respondents arbitrarily and unjustly reverted him.

3. The respondents in their reply state that the leave vacancy arrangement and adhoc arrangement referred to above, was only till the regular/selected person joined. They state that the applicant was permitted to participate in the selection held in April, 1990 for the post of Booking Clerk against the $33\frac{1}{3}$ %vacancy quota to be filled from eligible Class IV Staff, but he failed to qualify and was therefore replaced by a selected hand and ordered to be reverted to his substantive post of Khalasi on 17.12.90 . It is further stated that as the applicant had been put to work as Booking Clerk on adhoc basis by local arrangement without any orders of the competent authority, he was ordered to be reverted by impugned orders dated 22.8.91 which was implemented immediately. The respondents have also denied that anyone junior to the applicant is presently working as a Ticket Collector, except such persons as

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might have secured stay orders from Courts.

4. Applicant's counsel Shri Mainee has asserted that there are no materials to indicate that the applicant was actually replaced by a regularly selected person and in the light of the CAT Full Bench Judgment dated 5.5.89 in T.A.No. 844/86 Shri Jethanand & Ors. Vs. UOI & Ors, the applicant should have been given several chances to clear the selection test and the failure of the respondents to do that makes his reversion illegal for which he is entitled to be reinstated.

5. We have considered these assertions carefully. We note that the prayer for grant of interim relief to restrain the respondents from reverting the applicant was considered by the Tribunal on 30.10.91, i.e. over 2 months after the reversion/order dated 22.8.91 was issued, and the Tribunal came to a clear finding that prima facie there was no case to grant an ad interim direction to the respondents. The applicant has thus been working on his substantive post as Khalasi since August, 1991. He has not produced any materials to show that any person junior to him has been working on adhoc basis as Booking Clerk while he himself is working as Khalasi, to invite the charge of discrimination against the respondents. The applicant has no enforceable right for promotion on adhoc basis because promotions/appointments on adhoc basis are made purely as short term and temporary measures in the public interest, pending

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filling up of vacancies on regular basis.

6. Under the circumstances, the applicant has no enforceable right to be automatically reinstated as Booking Clerk on adhoc basis. However in the event that vacancies exist and subject to the overriding public interest, it will be open to the respondents to consider putting the applicant to work as Booking Clerk on adhoc basis, while in the meantime giving the applicant further opportunities to appear in the selection test in accordance with rules.

7. This O.A. is disposed of accordingly.
No costs.

A. V. Davalli
(DR.A. VEDAVALLI)
MEMBER (J)

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

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