

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

D.A.480/91

DATE OF DECISION: 18.9.1992

D.P.Malik

... Applicant

vs.

Union of India through
Secretary, Ministry of Railway,
New Delhi and Others.

... Respondents

For the Applicant

.. Shri S.K.Bisaria,
Advocate

For the Respondents

.. Shri N.K.Aggarwal,
Advocate

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THE HON'BLE SHRI S.P.MUKERJI, VICE CHAIRMAN

THE HON'BLE SHRI T.S.OBEROI, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

J U D G M E N T

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 11.2.91 the applicant who had been working as Area Superintendent near Mathura and retired from the Railway Service on 30.11.1990 has prayed that the reversion order dated 23.11.90 at Annexure-1 be set aside and the order of deduction of Rs.24,504/- under the head of Commercial Debit, from his retirement benefits, be quashed.

2. When the application was taken up for final hearing, the learned counsel for the applicant stated that the amount deducted from his retirement benefits has been given back to the applicant and therefore, the application may be heard on the relief regarding reversion order at Annexure-1. The brief facts of the case are as follows.

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2. The applicant was selected through the Railway Service Commission in the Central Railway as Station Master and was promoted to Class II Railway Service as Area Officer in 1984. While the applicant was working in that grade as Area Officer and posted at BAD near Mathura, according to the applicant, he was promoted as Area Superintendent on 14.8.1989 in the pay scale of Rs.3000-4500/- with a special pay of Rs.200/- and worked in that capacity till he retired on 30.11.1990. He was called in Jhansi while he was in service and was informed of the impugned order dated 23.11.1990 which reads as follows:-

"The Sr.Scale post of Area Officer, BAD is temporarily downgraded to JS/C1.II.

Shri D.P.Malik, AO BAD is reverted and posted in Class II service on adhoc basis as AO BAD against the above downgraded post.

This issues with the approval of CORPS".

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His contention is that the impugned order of reversion was passed without any enquiry or chargesheet and amounts to punishment which was meted out to him just a week before his retirement. At the time of payment of retirement benefits, he was informed that the respondents have deducted Rs.24,504/- from his retirement dues under the head of Commercial Debit.

3. In the counter affidavit the respondents have stated that the applicant was reverted not on the basis of any disciplinary proceedings but as a result of deletion of his name from the regular Class II panel. They have stated that the amount of Rs.24,504/- has been paid to the applicant. They have, further, stated that

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his selection in Class II panel was challenged before the Bombay Bench of the Tribunal in an application filed by the All India SC/ST Association and some other failed candidates and the respondents holding the second supplementary test as irregular, deleted the name of the applicant from the panel and he had to be reverted to Class III post, but he was accommodated in a Class II post. His promotion on 28.7.1989 to a Class I post was on a temporary ad-hoc basis and he was paid only the Class II pay plus the charge allowance. They have conceded that with the approval of the competent authority a second supplementary test was held and the applicant along with one more candidate ^{was} ~~were~~ found suitable and included in the panel which was declared on 18.10.1989. When the All India SC/ST Association and other failed candidates moved the Bombay Bench of the Tribunal in O.A.973/89, the matter was ^{referred} ~~appraised~~ to the Ministry of Railways and under the instructions of the Railway Board, the names of two officers empanelled as a result of the second supplementary list were deleted and the applicant was reverted to Class II post which he had held till his retirement.

4. In the rejoinder the applicant has stated that he was duly selected for the grade of Rs.3000-4500 in the senior scale and has been performing his duties and responsibilities from the date of his promotion, i.e., 14.8.89 till 30.11.90. He was, without any notice or reason, reverted from Class I scale to the Class II grade

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of Rs.2000-3500. He was drawing the basic pay of Rs.3500/- and Rs.200/- as special charge allowance before his reversion and he is entitled to get the same till his retirement and his retirement benefits calculated on that basis. His contention is that while the applicant was reverted from senior scale of Rs.3000-4500 to the junior scale of Rs.2000-3500, his juniors continued to work in the senior scale.

5. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. In accordance with the order dated 18.10.1989 enclosed with the rejoinder, the applicant along with others were placed in the provisional panel for promotion to Class II posts in the cadre of AOS/AO in Transportation(Traffic)Department. Vide a further order dated 22.12.1989 amongst others the applicant was "put to officiate to Group'B' Service on regular basis and further continued to look after the Senior Scale post of AO BAD". The grade in the Group-B Service was indicated to be Rs.2000-3500. It is admitted that to look after the Senior Scale post, he was given a charge allowance of Rs.200/- in addition to Rs.3500/- which he was drawing in the Class-II grade. By the impugned order dated 23.11.90, as quoted earlier, the post of Area Officer,BAD which was in the Senior Scale, was downgraded to the Junior Scale Class II and the applicant was reverted and posted to the downgraded post in the Class II Service. The applicant was not given any notice before his reversion, even though it is conceded by the respondents that there was no disciplinary proceedings pending against him.

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The only reason given is that the respondents unilaterally decided that the applicant's selection to Group-8 Service was irregular. This, to our mind, is not warranted by the principles of natural justice. Even otherwise, when the applicant was retiring within seven days and he was allowed to ^{continue to} hold the same Senior Scale post of AO, BAD ^{till his retirement}, the reversion order is too harsh and illegal.

6. In the circumstances, we allow the application, set aside the impugned order dated 23.11.1990 at Annexure-I and direct that the applicant's status should be restored as on 23.11.90, as if the impugned order had not been passed, with all consequential benefits including arrears of pay and allowances and refixation of his pension and other retiral benefits. There will be no order as to costs.

S. Oberoi 18-9-92
(T.S. OBEROI)
JUDICIAL MEMBER

S.P. Mukerji
18-9-92
(S.P. MUKERJI)
VICE CHAIRMAN

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