

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 8th day of April 2003.

QUORUM : HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.
HON. MAJ. GEN. K.K. SRIVASTAVA, A.M.

O.A. No. 260 of 1996

Abdul Majid S/O Late Masih Alam, aged about 45 years, R/O
549-G, Ghanshyam Nagar Railway Colony, Allahabad.

..... Applicant.

Counsel for applicant : Sri S.S. Sharma.

Versus

1. The Union of India owning and representing Northern Railway
Notice to be served to the General Manager, Northern Rly.,
Headquarters office, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, DRM
Office, Nawab Yusuf Road, Allahabad.
3. The Divisional Superintending Engineer (Co-ord.), Northern
Railway, DRM Office, Nawab Yusuf Road, Allahabad.
4. The Divisional Personnel Officer, Northern Railway, DRM
Office, Nawab Yusuf Road, Allahabad.

..... Respondents.

Counsel for respondents : Sri A.K. Pandey.

O R D E R (ORAL)

BY HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.

By this O.A. under Section 19 of A.T. Act, 1985,
the applicant has prayed for quashing the order dated
16.2.1996 (Annexure A-1) by which the applicant was reverted
from the post of Clerk to the post of Material Checking Clerk.
The applicant has also prayed that the respondents may be
directed to regularise the applicant in service as Clerk in
the pay scale of Rs.950-1500 w.e.f. 8.7.1981 from the date
he was posted as Storeman on 8.7.1981 and as Material Checking
Clerk on 19.11.1981 by order dated 30.5.1984 by which the
applicant was promoted on ad-hoc basis in the grade of
Rs.950-1500.



2. The facts of the case are that while the applicant was serving on ad-hoc basis as clerk, he was reverted to the substantive post vide order dated 16.2.1996 (Annexure A-1) aggrieved by which the applicant has approached to this Tribunal, for the reliefs mentioned above.

3. Resisting the claim of the applicant respondents have stated that the applicant was screened for regularisation as Clerk but as he could not qualify, he was sent back to his substantive post. This fact is not disputed by ~~the respondents~~ ^{Counsel for applicant} that the applicant was permitted to appear in the test but he could not succeed in the same.

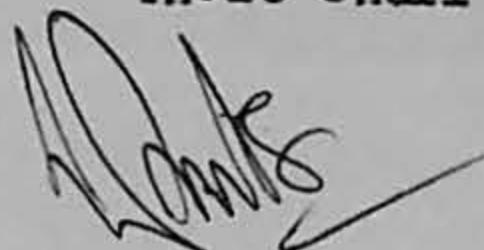
4. Counsel for the applicant, however, submitted that the General Manager, Northern Railway, by order dated 18.8.88 had directed that the Material Clerks in grade of Rs.260-400 working on ad-hoc basis for more than three years in Division be regularised on the basis of ^{their} service record and viva-voce only after observing the extant instructions on the subject. This direction was for Material Clerk and not for ad-hoc clerks and cannot be applied in case of the applicant. Counsel for the applicant also placed reliance on Annexure-6 which is an order dated 11/15.2.1991. It is submitted that the direction was for MCC/Clerks and the applicant was entitled for the same only on the basis of viva-voce but he has been discriminated and the benefit has not been granted to him. The respondents have filed supplementary counter affidavit on 24.3.2003 denying the aforesaid facts. It has been stated that Annexure-6 & 7 filed along with the O.A. were not applicable to the open line. They were confined to construction side only and the applicant is not entitled. However, in the present case we are not required to enter into this controversy. The applicant was aware of these orders and he should ^{have} objected, when he was subjected to screening test for regularisation, which was not done by the applicant. We



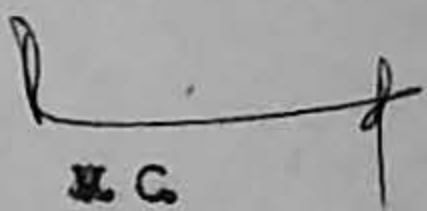
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are only considering the justification of the order of reversion passed against the applicant. As the applicant could not succeed in screening test for being regularised as Clerk, he was not entitled to continue on ~~regular~~ ^{ad hoc} basis. Under the circumstances, the order does not suffer from any error of law. Accordingly the O.A. is dismissed.

There shall be no order as to costs.



A.M.



M.C.

Asthana/