

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 19th day of January, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.
Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No.756 of 1997

Moin Uddin,
s/o Sri Abdul Rahim,
r/o Mohalla Khunipur,
Working as Driver Grade-II,
N.E. Railway, Gorakhpur.

.Petitioner

(By Advocate Sri S.K. Gh)

Versus

1. Union of India,
through General Manager,
N.E. Railway, Gorakhpur.
2. Chief Personnel Officer,
N.E. Railway, Gorakhpur.
3. Chief Commercial Officer,
N.E. Railway, Gorakhpur.
4. Assistant Commercial Officer,
N.E. Railway, Gorakhpur.

. Respondents.

(By Advocate Sri V.K. Goel)

ORDER

(OPEN COURT)

(By Hon'ble Mr. S. Dayal, AM)

This application has been filed for setting aside the order dated 9th July, 1997 and issuing a direction to the Respondents not to revert the applicant from the post of Driver Grade-II in the pay-scale of Rs.1200- 1800 to the post of Driver Grade-III in the pay-scale of Rs.950- 1500.

Contd..2

2. The case of the applicant is that he was appointed as a casual labour on daily wage basis and was transferred as casual Driver in 1973 in the pay-scale of Rs.210- 390. He was called to appear in the screening test for the purposes of regularisation and he succeeded in the screening test dated 29th February, 1993, and he was placed at Sl.No.4 in Annexure No.1, showing that he had passed the screening test. He was promoted as Driver Grade-II on ad hoc basis in the pay-scale of Rs.1200- 1800 under the Chief Engineer (Construction), N.E. Railway, Gorakhpur by an order dated 31.3.1987. He was transferred to work under the Chief Commercial Superintendent from 1.8.1989. He was directed to appear in the trade test by a letter dated 15th May, 1992 to be held on 20th May, 1992. The applicant appeared in the trade test and was qualified and the result of which was declared on 18th March, 1993. A seniority list was issued on 18th June, 1996, in which the applicant's name was placed at Serial Number 8 along with other Drivers working in the Driver Grade -II in the pay-scale of Rs.1200- 1800. He claimed that his services were regularised w.e.f. 18th March, 1993 and he was continuously working on that post. He was suddenly reverted by a letter dated 9.7.97 from the Driver Grade-II's pay-scale of Rs.1200- 1800 to the Driver Grade-III's pay-scale of Rs.950- 1500. The applicant claims that he has completed more than 10 years as Driver Grade-II and cannot be reverted after a period of 10 years.

3. We have heard arguments of Sri S.K. On for the applicant and Sri V.K. Goel for the respondents. The learned counsel for the applicant has claimed that the applicant working on regular basis as Driver Grade-II in the pay-scale of Rs.1200- 1800/-. He was reverted without any show-cause and without any reason.

4. The learned counsel for the respondents, on the other hand, draws attention to paragraph-13, in which it has been stated that one Sri Hari Prasad Chaurasia represented that he was senior to the applicant. The case was examined and it was found that the applicant was erroneously continuing as Driver Grade-II in the pay-scale of Rs.1200- 1800 and that he was never promoted on regular basis in open line/separate seniority unit cadre. It is contended that the applicant was continuing only on the basis of ad hoc promotion. The ad hoc promotion was made on conditional basis by a letter dated 31.3.1987 and one of the conditions was that if any employee is regularised on open line on regular basis, the persons promoted on ad hoc basis will be automatically reverted. The learned counsel for the Respondents has also drawn attention to paragraph no.9 of the counter reply, in which it has been mentioned that two seniors found eligible were promoted and posted on regular basis as Driver Grade-II in the pay-scale of Rs.1200- 1800 and the copy of the Office Order is enclosed and marked as Annexure No.1 to this D.A. However, the learned counsel for the Respondents

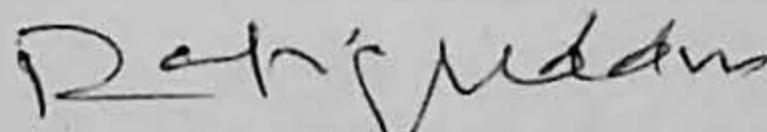
mentions that this annexure inadvertently remained to be annexed to the counter reply and produced an order dated 21.10.93, in which one office order is annexed. It is mentioned that Sri Gobardhan Rawat and Sri Hira Prasad Chaurasia had been declared successful in the trade test held on 18.3.93 and that they were being posted in the office shown against their names. The Office shown against the name of Sri Hira Prasad Chaurasia is that of Chief Commercial Manager, Gorakhpur. Since this contradicts the averment made in paragraph no.9 of the counter reply, the learned counsel for the Respondents mentions that in the trade test held on 18.3.93, four persons qualified, of which only two were promoted. This contention of the learned counsel for the Respondents is also not valid, because the 3rd name of Sri Hira Prasad Chaurasia is contained in the so-called Annexure No.1 produced by him.

5. We find that the seniority list published on 18th June, 1996, annexured as Annexure No.7 to this O.A. shows that the applicant was promoted as Motor Driver Grade-II in the pay-scale of Rs.1200-1800 w.e.f. 21-10-93 and that Sri Gobardhan Rawat and Sri Hira Prasad Chaurasia were also shown as promoted on the same day. This annexure has not been denied. The only contention made by the learned counsel for the Respondent is that the applicant's name was included erroneously in the seniority list, although he was working on ~~the~~^{an} ad hoc basis. Looking to the fact

that ¹29 posts are shown as existing in the 3 grades in the seniority list published on 18th June, 1996 and only 21 names including that of the applicant are shown in the seniority list, it appears that there were 2 posts available and the regularisation of the applicant after passing trade test in 1993 therefore cannot now be denied.

6. We, therefore, find that the applicant is entitled to the relief claimed in the O.A. The order dated 9th July, 1997 passed by the Respondent No.2 is, therefore, set aside and the applicant will be deemed to have continued in the pay-scale of Rs.1200- 1800 as Driver Grade-II. The benefit of this order shall be allowed within 3 months from the date of receipt of this order.

No order as to costs.


J.M.


A.M.

Nath/