

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 24TH DAY OF MAY, 2002

Original Application No. 1343 of 1994

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CORAM:

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

HON.MR.C.S.CHADHA, MEMBER(A)

Ramjeet Vishwakarma, a/a 38 years  
Son of Shri Parmeshawar Vishwakarma  
Chargeman, izat Nagar, Diesel Set.

... Applicant

(By Adv: shri S.K.Om)

Versus

1. Union of India through its Secretary  
Ministry of Railways, Govt. of India  
New Delhi.
2. General Manager, North Eastern  
Railways, Gorakhpur.
3. Divisional Railway Manager(Personnel)  
Izat Nagar.

.Respondents

~~Respondents~~

(By Adv: Shri A.K.Gaur)

Alongwith OA No. 92 of 1997

Arman Ahmad, son of Late  
ShriMudassir Husain, resident of  
Quarter No.61 A, Road No.7  
Railway Officer Colony, Izat Nagar  
Bareilly, working as Foreman-B  
Diesel Shed, Izat Nagar, Bareilly.

... Applicant

Versus

1. Union of India through  
Divisional Railway Manager,  
North Eastern Railway, Izat Nagar,  
Bareilly.
2. Chief Personnel Officer,  
North Eastern Railway,  
Gorakhpur.
3. Senior Divisional Personnel Officer  
North Eastern Railway, Izat Nagar  
Bareilly.
4. Ramjeet Vishwakarma, S/o Not known  
working as Chargeman-A, Diesel Shed  
Izat Nagar, Bareilly.

..Respondents

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

In OA 1343/94 applicant Ramjeet Vishwakarma has challenged the order dated 29.7.1994(Annexure 1) by which Arman Ahmad, Arun kumar and Kanhaiya Prasad have been promoted. Applicant is aggrieved by promotion of Arman Ahmad as Foreman 'B' in the pay scale of Rs2000-3200. The applicant has also prayed that respondents may be directed to promote applicant as Junior Foreman(Electrical) in izat Nagar and to provide him all incidental benefits w.e.f. 17.7.1991. This OA suffers from legal effect on account of which applicant cannot be granted relief by this Tribunal. First such legal lacuna is that though order dated 29.7.1994 has been sought to be quashed but Arman Ahmad who is likely to be effected by order of this Tribunal has not been impleaded as respondents. In our opinion this applicant cannot get relief behind his back.

The second question is of limitation. Applicant has claimed that he should be promoted as Junior Foreman(Electrical) w.e.f. 17.7.1991. The limitation for filing the OA is only one year u/s 21 of A.T.Act. If the cause of action had arisen to the applicant on 17.7.1991, the OA could be filed within a year by 17.7.1992. Whereas, this OA has been filed on 26.8.1994 i.e. after more than 3 years. Thus, the applicant is not entitled for any relief from this Tribunal. However, <sup>9/1</sup> the connected matter is being sent back to departmental Authorities for re-consideration and passing a fresh order after hearing applicant Arman Ahmad, <sup>i</sup>n our opinion, this applicant may also be given liberty to address the authority concerned about his grievances and this order of dismissal in that situation shall not come in his way.

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In OA 92/97 applicant has challenged the order dated 24.1.1997 by which he has been reverted from the post of Foreman 'B' to the post of Chargeman grade 'A'. The grievance of the applicant is that he was promoted as Foreman 'B' by order dated 29.7.1994 (Annexure 3). He had already worked on the post for more than two years then the order reverting him to the lower post has been passed without giving any opportunity to him. The learned counsel for the applicant has submitted that this order cannot be sustained and is liable to be quashed on the short ground that it has been passed in-violation of the principles of natural justice.

Shri A.K.Gaur learned counsel appearing for the respondents on the other hand, submitted that as Ramjeet Vishwakarma (applicant in OA No.1343/94) was re-deployed and transferred to Diesel Shed on 8.10.1993 and he was senior to applicant Arman Ahmed hence applicant was reverted. However, the learned counsel for the respondents could not justify as to why before passing impugned order, ~~very~~ opportunity of hearing could not be given to the applicant. In the facts and circumstances of the case, in our opinion the impugned order of reversion cannot be sustained.

In rejoinder affidavit Shri S.K.Om submitted that ~~in~~ Ramjeet Vishwakarma who was transferred from Loco Shed cannot get full seniority as held by Hon'ble Supreme court in case of 'V.K.Dubey and Ors Vs. Union of India and Ors 1997 SCC(L&S) 1123.

We have carefully considered the submissions of counsel for the parties. As the applicant is entitled for relief on a short question of law that impugned order has been passed in violation of principles of natural justice, it is not necessary for us to enter into other

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questions raised by counsel for the parties. It is left open to <sup>applicant to this question</sup> raise before the Authority concerned. The applicant is however entitled for relief.

For the reasons stated above, OA No.92/97 is allowed. The impugned order dated 24.1.1997(Annexure 4) is quashed. However, it shall be open to respondents to pass a fresh order after giving opportunity of hearing to the applicant.

OA No.1343/94 is disposed of with the liberty to the applicant to make a representation before Senior Divisional Personnel Officer, respondent no.3 challenging the promotion of applicant Arman Ahmad. If such a representation is filed, it shall be considered and decided in accordance with law. There will be no order as to costs.