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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration No. 96 of 1986.

Patiram

Versus

Union of India and Others.

Present : 1. Hon'ble D.S. Misra (AM)
2. Hon'ble G.S. Sharma (JM)

Judgment delivered by Hon'ble D.S. Misra (AM)

This is an application Under Section 19 of the Administrative Tribunals Act, 1985 in which the applicant has challenged the order of reversion from the post of Chief Goods Supervisor by the order dated 19.9.85 passed by the Senior Divisional Personnel Officer, Northern Railway, Allahabad. The applicant's case is that initially he is appointed as Assistant Goods Clerk in the year 1957. He was promoted as Goods Clerk in February, 1974, Head Goods Clerk in April, 1975 and Goods Supervisor in January, 1979. In the month of January, 1983 he was promoted as Chief Goods Supervisor Grade-I at Allahabad. The applicant has claimed that while working as Chief Goods Supervisor Grade-I since January, 1983 he was given award and appreciation certificate by the Divisional Railway Manager, Allahabad for his outstanding performance. The applicant has alleged that by an order dated 19.9.85 the Senior Divisional Personnel Officer, Northern Railway, Allahabad had reverted him from the post of Chief Goods Supervisor to the post of Goods Supervisor. He filed an appeal against the above mentioned illegal reversion order on 30.9.85 to the Divisional Railway Manager, Northern Railway, Allahabad which was rejected by an order dated 4.11.85. The present application is against the order of reversion passed by respondent No.2 and the rejection

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of the appeal by respondent No.3. It is contended that his reversion was in violation of Articles 14, 16 and 311 of the Constitution of India.

2. A reply has been filed on behalf of the respondent No.2 Shri Raghav Ram, Senior Divisional Personnel Officer, Northern Railway, Allahabad. In reply it has been stated that the applicant's promotion to the post of Chief Goods Supervisor in the year 1983 was purely on adhoc basis and did not confer any right to the applicant to continue on that post indefinitely. It is stated that the post of Chief Goods Supervisor was a selection post and was controlled by the HQrs. office at New Delhi. As per restructuring policy spelled out by the Railway Board to fill up the 22 upgraded posts of Chief Goods Supervisors, modified selection procedure was adopted and the staff in the grade of Rs. 550 - 750 were to be considered for empanelment to grade Rs.700 - 900 on the basis of their record of service and ~~of~~ confidential reports in the order of seniority. The applicant was not found suitable by the Selection Committee and he could not be empanelled for promotion on a regular basis. It is further stated that the post of Chief Goods Supervisor pin-pointed at Allahabad or on any station is not particularly earmarked for any staff and any regular^{ly} selected staff may be posted against this post from any station on the Division. It is further stated that to fill up the remaining vacant post^s of Chief Goods Supervisor, Grade Rs.700 - 900, the staff ~~in the~~^{be} two grade below ~~in the~~^{be} as on 31.12.83 were also considered for empanelment on the basis of interview only to be judged by the Selection Board. The panel of staff so formed was in continuation of the previous



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panel. Since the applicant was not found suitable to be placed on the panel on the basis of S.R. and C.Rs and the subsequent selection held on the basis of interview was in continuation of the earlier selection the applicant was not considered in the subsequent selection. It is further stated that a selection consisting of written test^{plus} and Viva Voce test was held ^{on 19.10.85 and 03.10.85 respectively} ~~initiated~~ to fill up 8 existing & 2 anticipated vacancies ^{plus} ~~be~~ under the normal rules for selection. The applicant was also called to appear in the examination but he did not appear in the written test. The applicant was transferred from Allahabad to PNK vide office notice dated 8.4.85 where he did not join. The applicant vide his application dated 11.9.85 requested for change in the transfer from PNK to C.P.C. due to family circumstances. While considering the request of the applicant it has also been decided by the competent authority that since the applicant could not be found suitable to be placed on the panel of Chief Goods Supervisor Grade-I and it was also not recommended to continue him as CGS Grade-I on adhoc basis, he was reverted to his substantive post of Goods Supervisor in the grade of Rs. 550 - 750 and posted at C.P.C. vide office notice dated 19.9.85. It is also stated that adhoc promotions are normally avoided and are made in exceptional ^{with} circumstances ~~when~~ ^{with} the approval of the Additional Divisional Railway Manager, where extreme urgency of such promotion is required. It is also contended that circular No. FL(D & A)-65-Re-6-24 dated 9.6.65 quoted by the applicant is too old and has been superseded vide Railway Board letter No. E(MR)1-02PHI-68 dated 28.4.82 (copy at Annexure R-2).



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3. At the time of final hearing of the case, the learned counsel for the applicant laid great emphasis on the instructions contained in the circular letter dated 9.6.65 mentioned above. Since the circular of 9.6.65 has been superseded by the circular of 28.4.82, which was issued prior to the issue of the impugned order, the effect of the order of 28.4.82 in the present case has to be examined. The learned counsel for the respondent contended that this circular was applicable to persons promoted after due selection and reverted within a period of 18 months of promotion on account of unsatisfactory performance of the employee and did not apply to the case of the applicant, whose initial order of promotion was on adhoc basis and he was clearly informed at the time of his promotion that he was being promoted on purely adhoc basis without his having any claim for appointment on regular basis on that post. The learned counsel for applicant did not contest this contention of the learned counsel for respondents but asserted that the work and conduct of the applicant had been appreciated and awarded by the authorities and he was continued on the same post for about 3 years. It was vehemently argued that the impugned order was ~~in~~ violative of Articles 14, 16 and 311 of the Constitution of India. The following case law was cited in support of his case :

Supreme Court 1974, Para 19, Page 430.
In this case State of U.P. Versus Sugar Singh - it was contended that the reversion of the respondent from the post of Sub Inspector to that of Head Constable even though he was senior to atleast 200 Head Constables, who were allowed to continue, amounted to discrimination in contravention of the provisions of Articles 14, 16 of the Constitution. It was noted that the

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order of reversion was a result of the adverse entry made in the Confidential Character Roll and the ^{Hon.} learned Supreme Court held that the order was passed by way of punishment and would be liable to be quashed on the ground of contravention of Articles 14 and 16 of the Constitution. It was clarified by the learned counsel for the respondents that the order of reversion was not based on any adverse remarks or unsatisfactory performance of duty but was based mainly on the ground that the applicant was not considered fit for promotion on regular basis when the first selection was made and in the second selection held in October-November, 1985 he did not participate in the written test although he was asked to do so. We are of the opinion that in view of the denial by the respondents the above case law does not help the petitioner.

Yet another case law cited by the learned counsel for the applicant is Allahabad 1975, Labour and Industrial Case, Page 285, Satish Chandra Mittal Versus State of U.P. & Others. In this case, it was held that the ^{er} revision of a senior officer from officiating post to substantive post as against retention of his juniors without any justifiable ground for ^{Such} discrimination violates Articles 16 and 311 of the Constitution. We are of the opinion that ^{also} this case ^{do} does not help the applicant as the retention of his juniors was due to the fact that they had been approved for promotion by a ^{duly} ~~legally~~ constituted Selection Committee. ^{be}

The third case law ^{cited} ~~by~~ ^{be} the learned counsel for the applicant is UPLBEC 1985 Page 4, G.P. Doval Vs. Chief Secretary, Govt. of U.P. & Others. ^{be} It was argued ^{in that case} ~~that~~ by virtue ^{be} by the learned counsel for the applicant ^{be}



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of continuous officiation for a long period, the applicant had become entitled to be treated as having been promoted on a regular basis and could not be reverted without following procedure of disciplinary action. We have gone through this case law and we find that this case law is also not applicable to the case of the applicant as he was reverted from the post held by him on adhoc basis within a period of less than 3 years.

4. For reasons mentioned above we hold that the applicant was working on the post of Chief Goods Supervisor on purely adhoc basis and his reversion to the substantive post of Goods Supervisor is not by way of punishment. For reasons best known to the applicant he did not avail ^{of} the opportunity offered to him for taking the written examination and viva voce test held in ^{October} 1985 for promotion to the post of Chief Goods Supervisor even though the orders of his reversion were passed by the competent authority in April, 1985. It appears that the Department was quite liberal in offering him a posting elsewhere as Chief Goods Supervisor but he declined to do so and asked for posting at a place convenient to him. The order of reversion appears to have been passed as the competent authority was unable to accommodate him in the capacity of Chief Goods Supervisor at the place of his choice. We therefore reject the application without any order to costs.



D.S. Misra
10.6.86
(D.S. Misra)
Administrative Member

G.S. Sharma
10/6/86
(G.S. Sharma)
Judicial Member.

RKM
10.6.86