

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

Registration T.A. No. 231 of 1986  
( O.S. No. 618 of 1984 )

Indra Deo Rai      ...    ...    ...    Applicant.

Versus

Union of India      ...    ...    ...    Respondents.  
and another

Connected With

Registration T.A. No. 230 of 1986  
( Civil Appeal No. 404 of 1984 )

A n d

Registration T.A. No. 142 of 1986  
( O.S. No. 404 of 1984 )

Union of India      ...    ...    ...    Applicants.  
and another

Versus

Indrdeo Rai      ...    ...    ...    Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

This is a transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicant filed a suit in the court of District Judge, Varanasi in the year 1984 praying that a decree of declaration may be granted in favour of the applicant by continuing him as duly selected signal Inspector Grade-III in the scale of Rs. 425-700 unaffected by the illegal transfer order passed by way of punishment.

2. The applicant was appointed on 31.12.1958 on completion of 3 years apprenticeship as

Electrical Signal Maintainer in the scale of Rs. 110-180. In the year 1978, he was promoted as Electric Signal Maintainer Grade-II in the scale of Rs. 130-210 after having been declared passed in the trade test. As a result of upgrading of two posts of panel cabin/ vacancy from ESM Grade-II in the scale of Rs. 130- 212 to Rs. 175-240, the applicant was promoted as ESM Grade I in the scale of Rs. 175-240. On 17.4.1982, a charge-sheet was served upon him. A seniority list cum-readiness was issued on 14.3.1984 showing the applicant at Syl. no. 10 vide letter dated 24.5.1984, and when the result of written test declared, the applicant was declared passed. According to the applicant as he was ill, his viva-voce was not taken and it was declared that he was not traceable. The applicant made representation and thereafter, he was allowed to appear in viva-voce. Again on 11.4.1984, the applicant was again served with a charge-sheet and while he was on duty, some transfer order was passed.

2. The respondents have opposed the application filed by the applicant and have stated that the applicant has passed the written examination but according to them, he was failed in the viva-voce test and that is why, he could not get benefit of his success in the written examination. In the meantime, it appears that the proceedings were started against the applicant. The learned counsel for the applicant stated that

he has been exonerated but he has not been allowed to perform the duties. The applicant has been exonerated and the transfer order was recalled. If the applicant has been exonerated, there appears to be no reason why the applicant has not performed the duties and was <sup>made to</sup> sit idle. It is not necessary to enter into the counter charges as to who is responsible for non-performance of the duty. However, in case, the applicant joined the duty, there appears to be no reason why he has not been given the second opportunity for appearing in the examination for higher promotion. Years have passed and during this period, examination must have taken place and, by virtue of his seniority and after joining the service, the applicant becomes entitled to appear in the examination and he can be allowed even in the supplementary examination and all this must take place as far as possible within a period of 6 months from the date of receipt of the copy of this judgment, and the matter should not be now delayed. This judgment will dispose of the contempt application as well as the Misc. Appeal. No order as to the costs.

*R. Bhargava*  
Member (A)

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Vice-Chairman

Dated: 23.3.1993

(n. u.)