

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD BENCH) ALLAHABAD.

~~C.A. NO.~~
TA. NO.

1423

OF 1987

Date of decision---

.....Gaya Prasad & ors.....Petitioner

...Sri...Satish...Dwivedi.....Advocate for the petitioner

Versus

..Union of India & ors.....Respondent

.....Sri...N. K. Verma.....Advocate for the Respondents

XXXXXXXXXXXX

CORAM :-

The Hon'ble Mt. Justice V. C. Srivastava, V. C.
The Hon'ble Mr. K. Chayya A. M.

1. Whether Reporters of local papers may be allowed to see the judgment
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether to be circulated to all other Benches ?

Signature

NAQVI/

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration T.A. No. 1423 of 1987
(W.P. No. 7381 of 1984)

Gaya Prasad and another Applicants.

Versus

Union of India
and others Respondents.

...

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 has filed a writ petition before the High Court of Judicature at Allahabad which by operation of law has been transferred to this Tribunal. By means of this writ petition, the applicants have prayed that a mandamus be issued commanding the respondents to decide the representations of the applicants and till then, they may be directed not to revert the applicants from the post of Permanent Way Mistri, and further to quash the order of reversion (Annexure-4) passed against the applicants directing the respondents to pay the applicants their salary and other allowances for the said post.

2. The applicants were appointed as Gangmen on 15.4.1956 and 1.10.1953 respectively and thereafter they were promoted to the post of Keymen on 26.6.1977 and also in the year 1972 and further as Mate on 15.12.1980 and in the year 1976. Out of these two applicants, the applicant no. 1 is still in service and the applicant no. 2 has retired from service. The

Contd ...2p/-

applicants were put to suitability test and after having been declared successful in the said test, they were promoted to the post of Permanent Way Mistri on 24.6.1982 and 28.11.1980 respectively. The applicants were sent for training from 3.10.1983 to 31.12.1983 at Railway Training Institute, Chandausi but they failed in the said training, and that is why the order of reversion was passed against them on 14.2.1984. Thereafter, the applicants made representations to the respondent no. 2 on 14.3.1984 and 29.3.1984 respectively, but no heed was paid by the respondents on their representations. The applicant has placed reliance on Section 157 of the Indian Railway Establishment Code, Volume-1 and on the Circular No. E (NG)58, CFP/15 dated 26.5.1965 which reads as follows;

"In the event of basic tradesman not passing the requisite trade test within the prescribed period, he will revert to his original post in the lower grade. It is not considered necessary to give the basic tradesman more than three chances for passing the prescribed test",

Rule 110(A)(iii)(a) of the Railway Establishment Code provides;

"The standard of training imparted to the class IV Railway servants selected for class III post should be the same as for direct recruits for the same ~~old~~ Class II categories and in the case of failures in the first attempt such employees may be given a second chance to qualify."

3. According to the applicant, they were not given a reasonable chance, although they have gained experience and their suitability has been judged. *His case for grant of exemption from examination should also have been considered which may be done even now*

4. The respondents have opposed the application and have stated that it was only a temporary promotion and nobody can get a regular promotion unless he passes the training courses. The applicants having failed to pass the training course, they could not have ~~claim~~ ^{for} the regular promotion. They were given three chances to appear in the test but they failed in the same. The learned counsel for the respondents has placed before us a document which indicates that the training course has now been passed by the applicant no. 1 in the year 1990 and is promoted. But the applicant states that he was never sent for training and the order may relate to some other persons. If that be so, the respondents are directed to send the applicant for training course within a period of 2 months from the date of receipt of copy of this judgment and thereafter give him promotion *provided he is not provided promoted by granting him exemption from examination*. The application is disposed of ~~off~~ with the above observations. No order as to Costs.

[Signature]
Member (A)

[Signature]
Vice-Chairman

Dated: 17.2.1993

(n. u.)