

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD BENCH.

...

T.A. No. 476 of 1987
(O.S. No. 560 of 1984)

Jai Nath Applicant.

Versus

Union of India and others Respondents.

Hon^{ble} Mr. D.K. Agrawal, J.M.
Hon^{ble} Mr. A.B. Gorthi, A.M.

(By Hon^{ble} Mr. D.K. Agrawal, J.M.)

This claim petition under Section 19 of the Administrative Tribunals, Act 1985 is directed against the reversion order dated 23.11.1983, whereby, the applicant has been reverted from the post of Mate to the post of Chaukidar.

2. The facts, in brief, are that the applicant was recruited as Casual Gangman in the year 1954, regularised on the post of Gangman on 15.3.1956. In the year 1958, the applicant was promoted on the post of Gate Keeper and continued to work on the said post upto the year 1964. On 18.12.1974, the applicant was appointed on the post of Store Chaukidar. On 14.9.1981, he was appointed on the post of Mate in the scale of Rs. 210-270 as a result of selection held on 7.9.1981. He was, however, reverted to the post of Chaukidar vide order dated 23.11.1983. The applicant has challenged the said order of reversion and prayed that he may be declared to be continued on the post of Mate. Merits apart, it is also

DK Agrawal

an established fact that the applicant has not attended to his duty since about 27.3.1982. Surprisingly, the Railway Administration has also not initiated any action against the applicant so far. At least, the learned counsel for the Railway Administration was unable to disclose before us if any action has been taken by the Railway Administration against the applicant. Therefore, the conduct of the applicant is most reprehensive. The inaction on the part of the Railway Administration also provokes comments.

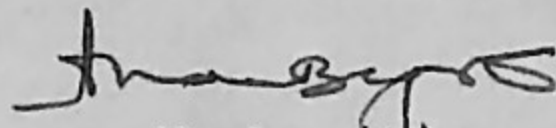
3. On the merits of the case, it is clear that the applicant was selected for the post of Mate, whether the selection was based on merit or on seniority-cum-merit. Once the applicant was so empanelled or selected, he obtained a right to hold the post. Therefore, his reversion, without enquiry or providing him any opportunity, can not be sustained in law. It is also interesting to note the reason given out in the written statement on account of which the reversion order was made. The Railway Administration has pleaded that the reversion order was passed because the vacancy for which the applicant was appointed, was meant for ^a general candidate and not for a S.C. Candidate i.e. it was not an S.C. Roaster point appointment. It may not be so, if the applicant was the senior most candidate and found suitable for appointment to the post of Mate, notwithstanding, the fact that he was a S.C. Candidate, he was entitled to the existing vacancy which is for general candidates on the basis of merits. In the circumstances of the case, the justification for passing the impugned order of reversion, as

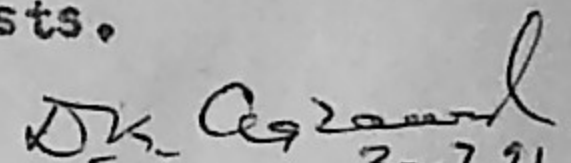
DK Ag 2000

disclosed in the pleadings by the Railway Administration, is not sustainable in ~~the~~ law.

4. In the result, we hereby quash the impugned order of reversion dt. 23.11.1983 and direct the respondents to ~~be~~ reinstate the applicant to the post of Mate but without ^{giving} ~~being given~~ him the benefit of seniority from the date of his absence to the date of his joining ^{and} without payment of back wages. However, service rendered by the applicant in the ~~past~~ will be taken into account for the purpose of calculating his pension at the time of his superannuation.

5. The present claim petition is disposed of accordingly without any order as to costs.


Member (A)


30.7.91.
Member (J)

Dated: 30.7.1991
(n.u.)