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ALLAHABAD.

T.A. No. 966/87

B. N. Verma Applicant

Vs.

Union of India & Others Respondents

Hon. Mr. Justice U.C.Srivastava, V.C.

Hon. Mr. K. Obayya, A.M.

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

The applicant, at the relevant time when he filed this application, was posted as Assistant Signal and Telecommunication Engineer (construction) and Stores, Headquarters at Gorakhpur, which is a selection post in Class II. He started as an Apprentice Mechanical Signal Maintainer. After the completion of his Apprenticeship he was posted as Mechanical Signal Maintainer (construction) on 9-11-1956 and thereafter he was posted as Assistant Signal and Telecommunication Engineer (Construction) and Stores. Subsequently he was asked to undergo medical examination and after the medical examination he was decategorised as it was found that he was suffering from colour blindness, and he was reverted. Against the reversion order the applicant filed Writ Petition ^{High} and the Court stayed the said reversion order and the applicant is still working in the same post at Headquarters, Gorakhpur, for the last 8 years, as the High Court ^{has} passed interim-order. The applicant has pointed out that the said reversion order is legally bad and violative of the principles of natural justice and further it was violative and arbitrary of the Article 14 of the Constitution of India, inasmuch as similarly placed other candidates who were ^{medically} decategorised, whose names were also given by the applicant, were not reverted, but instead of posting them for ~~Raj~~ field work they were

given posting in the same post and cadre either at Head Quarters or elsewhere, but the applicant was discriminated. He has given the example of one Mr. Ramanna also, which the respondents have tried to explain.

2. We have looked into the factual position. In this case the applicant having been posted as Assistant Signal and Telecommunication Engineer (Construction) and Stores, and has been working as such for the last 12 years satisfactorily, there appears to be no reason why he cannot be allowed to work in the same post and cadre. The instances given by him, though denied by the respondents, but they carry some weight and force, which indicates that the Railway administration can adjust the posting of such physically suffering employees in the same post and cadre either in Head quarters or elsewhere instead of reverting them and this is the case of the applicant also. Therefore, the reversion order of the applicant is without any justification and accordingly the same is quashed. By means of an amendment the applicant states that his juniors have been promoted, but the applicant is lagging behind.

3. Shri Lalji Sinha contended that the applicant is safe in a particular place and he is not eligible for promotion to the higher post and his juniors were promoted because of their physical ability and various other qualifications and such benefits cannot be claimed by the applicant. The respondents never considered the case of the applicant for promotion. It is only when his case has been considered for promotion the question of eligibility and criteria for promotion would have come in, but the same has not been done. As

applicant has been working in this post for the last several years and his juniors have been considered for promotion to higher grade, there appears to be no reason as to why the applicant cannot be ^{given} promotion to the higher grade. Accordingly the respondents are directed to consider the case of the applicant also for promotion to the higher post within the period of 3 ^{months} years. If the applicant has been found fit for promotion, ^{ie} notional promotion shall be given to him on the date on which his juniors have been given promotion. The application of the applicant stand disposed of in the above terms without any order as to the cost.

Member (A)

Vice-Chairman.

Dated: 29th July, 1992, Allahabad.

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