

Reserved

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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Dated: 17.4.87

Original Application No: 887 of 1987

1. Rajai Bhan aged about 52 years
S/O Shri Mata Saran
2. Moti Lal aged about 47 years,
S/O Shri Raghbir
3. Jawahar aged about 45 years
S/O Shri Kalloo
4. Ram Nihore aged about 46 years
S/O Shri Sheonath
5. Hira Lal aged about 45 years
S/O Shri Kalloo,
all Mates, posted under the Permanent Way
Inspector, Northern Railway, Mirzapur

.... Petitioners.

By Advocate Shri Satish Dwivedi
Shri A.K. Dwivedi

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Assistant Engineer, Northern Railway,
Mirzapur.
3. The Permanent Way Inspector (Special)
P.Q.R.S., Northern Railway, Mirzapur

.... Respondents.

By Advocate Shri D.C. Saxena
Shri Ravi Ranjan.

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C O R A M

Hon'ble Mr. T.L. Verma, Member-J
Hon'ble Mr. S. Dayal, Member-A

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O R D E R

By Hon'ble Mr. T.L.Verma, Member-J

This application under Section 19 of the Administrative Tribunal's Act has been filed for a declaration that order dated 15.12.1985 reverting the applicant from the post of Mate to the post of Gangman is illegal, inoperative, and without jurisdiction and for issuing a direction to the respondents to pay to the applicant the pay and allowances for the post of Mate from the date of reversion till the date of his reinstatement.

2. The facts giving rise to the present application briefly stated are that the petitioners were appointed as Gangman w.e.f. 28.1.67, 29.6.65, 13.1.66, 27.1.66 and 22.1.67 respectively. They were promoted to officiate as Mates w.e.f. 7.8.81, 6.4.83, 7.6.81 and 4.2.83 respectively. They have been ordered to be reverted from the post of Mates to the post of Gangman by order dated 15.12.1985. The order reverting the applicants to the post of Gangman was challenged in O.A. No. 27/86. The O.A. filed by the applicants, however, was dismissed on 3.7.1986 on the ground that other remedies available had not been exhausted. After the O.A. was dismissed, the applicants filed an appeal against the order reverting them to the post of Gangman. The

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appeal was sent to the concerned authority under registered cover on 26.8.1986. The registered cover was received by the respondents on 29.9.86. The respondents, it is stated, have not passed any order on the appeal filed by the applicants. Hence, this application for the reliefs mentioned above. The order reverting the applicants has been assailed on the ground that the same is arbitrary, illegal and against the provisions of law.

3. The claim of the applicant has been resisted by the respondents. The respondents have averred in their written statement that the applicants were engaged to work as Mates purely on temporary basis as stop gap measure and that the applicants did not appear ~~in any selection/test~~ and ~~test~~ ~~and~~ ~~the respondents~~ have not cleared the required ^a selection/trade test which is/conditioned precedent for promotion on regular basis and as such they have no right to continue as Mate. It has also been stated that this application is clearly barred by limitation.

4. We have heard the learned counsel for the parties and perused the record. The learned counsel for the applicant urged that according to the circular issued by the Railway Board, an employee who officiates/^{on a} higher grade for more than

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18 months continuously deserves to be regularised on the post. The copy of the circular has been annexed to the Rejoinder Affidavit as Annexure RA-1. The benefit of regularisation as envisaged in the instructions contained in Annexure RA-1 will be available only to such of the employees who have been promoted to officiate in a higher grade in accordance with rules and regulations. It is not in dispute that for promotion of a Gangman as Mate, the incumbent has to qualify in the selection/trade test. The applicants, admittedly, have not qualified the required trade test to make them eligible for the promotion. Hence, the applicants are not entitled to the benefit of the instructions referred to above.

5. The applicants have failed to file their letters of appointment. In absence of letters of their appointment, it is difficult to hold that the appointments of the applicants were not purely temporary as a stop gap arrangement.

6. The applicants have not denied the averments made in para 1 of the Counter Reply filed by the respondents that the clearing of the selection/trade test is a pre-requisite condition for promotion as Mate on regular basis. It has also not been denied that the applicants have not cleared the requisite selection/trade test

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from promotion to the post of Mate. That being so, no right for promotion to the post of Mate has accrued to the applicants. In that view of the matter and having regard to the fact that promotion of the applicants as Mate was purely temporary as stop gap arrangement, no direction as prayed for can be given.

7. In view of the above, we find no merit in this application and the same is dismissed. No order as to costs.

Stan

Member-A

John

Member-B

/jw/