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THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH-ALLAHABAD.

D.A. 995 of 1987

Bimal Kumar Pathak & three others..... Applicants.

Versus

Union of India & others..... Respondents.

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D.A. No. 1108/87

Surendra Prasad & six others..... Applicants.

Versus

Union of India & others..... Respondents.

Hon'ble Mr. Justice U.C. Srivastava- V.C.
Hon'ble Mr. K. Obayya - A.M.

(By Hon'ble Mr. Justice U.C. Srivastava- V.C.)

As the common facts have been arisen in both the cases, hence they are being disposed of together by a common judgment. The applicants in both the cases have joined as Khallasi and they were ultimately promoted as Khallasi Helper on 1.3.78 in one case and on 10.1.85 in the other case. The applicants were required to appear in the Trade-test for the post of skilled fitter in the year 1984 and it appears that these applicants were declared to have passed in the trade-test and were declared suitable. One of the applicants who had already been tested earlier, was not required to appear in the trade-test. In vive-voce test they have also passed on 10.1.85. Orders were issued for posting these candidates who have passed in the Trade-test and were empanelled. The applicants since January, 1985 have been officiating as skilled fitter in the grade 915 - 1500. They were reverted vide order dated 14.10.87. The grievance of the applicants that the same was without jurisdiction and ~~is~~ violative of Article 311 of the Constitution of India and they have ~~not~~ passed the Trade-test they could not have been reverted in this manner and that too without giving an opportunity of hearing. The Railway Administration has sought to justify its' action on the ground that senior persons were promoted. A complaint was made by two persons who were senior to these persons. It was found that not only these

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two persons Khallasi helper, but there were two other who were senior to these persons were eligible for promotion in the year 1985 and that is why this promotion order was recalled and the applicants were reverted. Even if it be so, that the senior person were not called ~~for~~ for trade test are not promoted. It is the Railway Administration which was solely responsible for the same. In case that was so, the applicants were not at fault and in these circumstances, when they were promoted, certain civil rights accrued in their favour, they were entitled for an opportunity of hearing. Without hearing they could not have been reverted. The impugned order on this very ground is liable to be quashed and this application is liable to be quashed. It is to be ~~noted~~ noted that in view of the interim order passed by the Tribunal them applicants are still working on the un-reverted post. The application is accordingly allowed and the impugned order of reversion is quashed. Further it will be open for the Railway Administration to consider the cases of the promotion for those who were passed over and determine the seniority of the applicants *vis-à-vis* the other payments in accordance with law. The application shall stand disposed of in these terms. No order as to the costs.

The copy of the order shall be placed in the file of O.A. No. 1108 of 1987 Surendra Prasad & others Versus Union of India and others.

R. Bhargava
Member (A).

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Vice Chairman.

Dt: Sept. 3, 1992.
(DPS)