

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Allahabad : This the 12th day of March, 1996

Original Application No. 1388 of 1988

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

Hon'ble Mr S.Dayal, Member-A

ML Sharma aged about 57 yrs

s/o Pt Lakshmi Pd Sharma

r/o Civil Lines, Jhansi

working as SO-II ad-hoc reverted

as Head Clerk in the office of Stn.

Supdt., Central Rly.,

Jhansi.

... Applicant

C/A Sri V.K.Barman

Versus

1. Union of India through  
General Manager, Central Rly.,  
Bombay.

2. DRM(P), Central Rly.,  
Jhansi.

.... Respondents

C/R Sri V.K.Goel

O R D E R (Oral)

By Hon'ble Mr T.L.Verma, J.M.

This application under Section 19 of the Administrative Tribunal Act has been filed for quashing order dated 15.11.88 reverting the applicant to the post of Head Clerk and for issuing a direction to the respondents to regularise the services of the applicant on the post of OS-II.

2. The facts of the case briefly stated are that the

applicant, while working as Head Clerk, was promoted to the post of OS-II on ad-hoc basis. He worked on the said post for more than 18 months. It is stated that the work and conduct of the applicant as OS-II was found to be satisfactory inasmuch as no adverse comment on his work and conduct was communicated to him. He, therefore, acquired a right to be regularised in terms of extent rules and instructions issued by the Railway Board in that behalf. The grievance of the applicant is that even though he had acquired a right for regularisation to the said post he was directed by the respondents to appear at the selection test held for promotion to the post of OS-II. He, therefore, appeared at the said selection examination. After the examination a number of persons who had been given ad-hoc promotion to the post of OS-II were given regular promotion as OS-II but the applicant was reverted as Head Clerk. The said order of reversion has been assailed in this application as being arbitrary, illegal and against extent rules.

3. The respondents have appeared and contested the claim of the applicant. In the written reply filed on behalf of the respondents it has been stated that though the applicant was promoted on ad-hoc basis to the post of OS-II and had worked for more than 18 months, he could not empanelled for appointment as OS-II on regular basis as he failed to clear the selection test held for promotion to the said post.

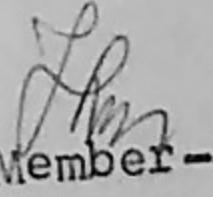
4. We have heard learned counsel for the parties and perused the record. The post of OS-II is a selection post. Therefore for promotion to the said <sup>post</sup> ~~incumbent~~ has to clear the selection test. The applicant, therefore, was rightly directed to appear at the selection test. It has been stated in the written reply filed on behalf of the respondents that the applicant appeared at the selection test but failed to qualify in the Viva-voce test. This averment of the respondents has not been controverted by the applicant by filing rejoinder affidavit. We have, there-

fore, no reason not to believe that the applicant appeared at the selection test for promotion to the post of OS-II and but failed to qualify in the viva-voce test.

5. We are unable to accept the arguments of learned counsel for the applicant that the applicant having put in satisfactory service for more than 18 months on the post of OS-II, to which he was promoted on ad-hoc basis, acquired a right to be regularised without appearing at the selection test. The Bar against reversion after 18 months service applies only to person who are promoted to officiate on higher post after due selection. The Bar does not apply to persons who are appointed on ad-hoc basis or on stop gap arrangement. Admittedly, the applicant was given ad-hoc promotion to the post of OS-II and that he failed to qualify in the selection test held for promotion to the said post. The competent authority was, therefore, justified in reverting him to the post of Head Clerk. He has no right to continue on the post. Therefore, the impugned order reverting the applicant to the post of Head Clerk does not call for any interference by the Tribunal.

6. For the reasons stated above, this application is dismissed. Parties will bear their own cost.

  
Member-A

  
Member-J

DL/