

~~AK~~

RESERVED

9

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

Allahabad this the 27th day of April 1995.

Original Application no. 789 of 1988

Hon'ble Mr. S. Dayal, Administrative Member
Hon'ble Mr. J. S. Dhaliwal, Judicial Member.

Ramesh, S/o Shri Ram Prasad, R/o House No. 30 Mandanpur
Sipri Bazar Jhansi, working as Skilled Fitter under
the C.W.S Jhansi.

... Applicant

C/A Shri H.P. Chakorvorty & Shri P.K. Khare

Versus

Divisional Railway Manager, C. Rly Jhansi.

.... Respondent.

C/R Shri A.K. Gaur.

ORDER

Hon'ble Mr. S. Dayal, Member-A

This is an application under section 19 of
the Administrative Tribunal Act, 1985 for getting
08.02.88 and
impugned order dated 24.05.88 quashed. Order dated
08.02.88 (Annexure A-1) states that the seniority of

Cont...2/-

A2
2

9

// 2 //

the applicant was being changed from 14.05.81 to 07.01.83 as the former date was due to a clerical error which did not take into account the fact that the department of the applicant had been changed from Loco to Carriage and wagon on 07.01.83 on his own request. The order dated 24.05.88 (Annexure A-3) is the order of reversion of the applicant as a Khalasi.

2. The relief has been sought on the grounds given in the application which are that the applicant was fully eligible and qualified for the post of skilled fitter, that the applicant was duly selected as skilled fitter following the proper procedure, that his juniors are working as skilled fitters, that his name still exists in the panel, that the ratio of AIR 1978 SC 284 and some other decision prohibits reversion of an employee without procedure laid down in Discipline and Appeal Rules if ^{he} had officiated for more than 18 months on a promotion post.

3. The counsel for the applicant Shri H.P. Chakeravarti argued that applications for promotion were called for in 1984 against 25% quota and there was no fixed zone of consideration but qualifications and applications were the only criteria. He said that applicant's promotion was not against 75% promotion quota. He said that reversion order did not mention

Handwritten signature or initials.

A2/3

10

// 3 //

that it was on grounds of seniority and that the applicant's reversion was without a show cause notice.

The counsel for the respondents mentioned that paragraph 3, 10 and 12 of the reply shows that the applicant's inter departmental transfer was at his own request and that he was wrongly promoted.

4. In Annexure A-2 of the OA, the applicant has claimed that he has come as skilled fitter from Jhansi Division to Bhopal Division on approval of Mutual Transfer applied for by him and Shri Munshi Lal Jointly. He has claimed that ticket no. ~~0000~~ of Shri Munshi Lal was 1332 and that to get seniority of Shri Munshi Lal ticket no. 1332, the applicant has also produced Annexure A-4 along with his rejoinder. This annexure is letter no. P 397/7/4/C W dated 10.12.84 of office of D.R.M, Jhansi, Central Railway. It says that in letter no. E (NG) III-78 RC 1/9 dated 27.07.79 and 23.08.79, 25% of skilled artisans vacancy which occurred between on 01.07.82 and 30.11.84 were to be filled up ^{from} amongst the employee working in semi skilled and seniority of class 4 categories ^{of} Khalasi Helper and Khalasi of Carriage and Wagon division who possess educational qualification in accordance with the Apprentices Act. Those who had passed standard 8th according to Apprentices Act, could send application ^{through} ~~000~~ their seniority subordinate by 31.12.84 ^{along with} certificate ^{showing} ~~granting~~ educational qualification.

// 4 //

A2
4

11

tion. The ~~employee~~ were to be sent on the basis of their seniority to BTC for 6/12 months training after which they will have to pass the trade test and on passing trade test they were to be promoted to those trade. The vacancies mentioned in the letter are as below:-

1.	Fitter Trade	52
2.	Carpenter Trade	3
3.	R-Heter Trade	4
4.	Welder Trade	2
5.	Panter Trade	2
6.	Black Smith Trade	1
7.	Hammerman Trade	5

5. Annexure A-5 of the rejoinder is an office order dated 03.09.86 which shows that vacancies occurring after accommodating requests for transfer of employees were being filled up with employee available against 25% departmental quota who were being posted, as far as possible, at their present station.

6. It is clear from the Annexure A-4 that only those employees were to be considered against the quota of 25% skilled artizans who applied in response to letter dated 10.12.84 (Annexure A-4) after they were sent for 6/12 months training for trade test and after they had passed the concerned trade test on completion of their training on the basis of their seniority.

Cont...5/-

// 5 //

A2
5

12

7. It is not known as to how many eligible employees had applied against the notice contained in letter dated 10.12.84 (Annexure A-4). It is, however, quite clear that the applicant was one of the eligible employees who had applied at the time for being sent for training and thereafter passed trade test and had become eligible for promotion. Under such circumstances, the respondents were required to give promotion on the date when the turn of the applicant came on the basis of their seniority in the list of candidates declared successful after training. The applicant's claim that he was entitled to be promoted by an order dated 03.09.86 can not be accepted. However, his name remained in the panel of successful employees prepared on the basis of invited applications vide letter of D.R.M Jhansi dated 10.12.84 (Annexure A-4). The applicant was thus entitled to get the promotion latest from the date of employee who was junior to him in the list specified in the preceding paragraph.

8. The applicant's claims that the impugned order in Annexure A-1 should be quashed, can not be accepted. Applicant's seniority in the cadre of Khalasi could not be considered to be from 14.05.81 but would only be considered from 07.01.83 which was the date of his inter departmental transfer on the basis of his own request. Hence Annexure A-1 dated 08.02.88 challenged by the applicant could not be quashed as it was

Cont...6/-

// 6 //

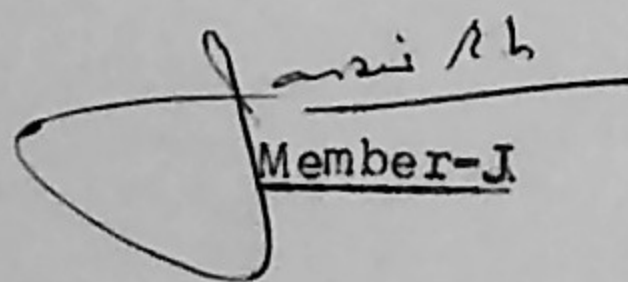
A2
6

13

based on sound principle for granting seniority from the date of inter departmental transfer on request. However, Annexure A-3 dated 24.05.88, reverting the applicant from the post of fitter grade 3 to Khalasi with effect from 10.05.88 had^s to be set aside. The respondents are directed to consider the promotion of the applicant in terms of direction contained in ensuing paragraph.

9. The respondents are, therefore, directed to consider promotion of the applicant within three months of communication of this order by the applicant on the basis of the list prepared against 25% quota to be filled up on the basis of applications invited vide letter dated 10.12.84 (Annexure A-4) with effect from the earliest date of promotion of any employee included in the list, who was junior to the applicant.

10. There shall be no order as to costs.


Member-J


Member-A

/pc/