

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 17 day of May 1996.

Original application No. 1515 of 1992.

Hon'ble Mr. S. Das Gupta, AM
Hon'ble Mr. T.L. Verma, JM

Bharatji Singh retired Yardmaster,
S/o late Sri Behari Singh, R/o
Village and P.O. Maniar, Uttar
Tola Distt. Ballia.

..... Applicant.

Sri A.N. Sinha

Versus

1. Union of India through the
General Manager (Personnel)
North Eastern Railway, Gorakhpur.
2. The Divisional Railway Manager,
North Eastern Railway, Varanasi.

..... Respondents.

Sri A.K. Gaur

O R D E R (ORAL)

Hon'ble Mr. S. Das Gupta, AM

This application was filed under Section 19 of Administrative Tribunal Act 1985, challenging an order dated 18.12.89 by which the applicant was reverted from the post of Deputy Chief Yardmaster in the pay scale of Rs. 2000-3200 to the post of Yardmaster in the pay scale Rs. 1660-2600. The applicant has prayed that the aforesaid order be quashed and the respondent No. 2 be directed to create a supernumerary

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post of Deputy Chief Yardmaster for the period from 18.12.89 to 31.12.91 and pay the arrear of salary, full amount of gratuity and leave encashment admissible as per rules. He has also prayed for payment of interest at the rate of 18 per cent or at the market rate on the amount of said arrears.

2. The facts giving rise to this application are that the applicant, while working as Yardmaster at Anwanganj Kanpur was promoted by an order dated 24.1.86 to the post of Deputy Chief Yardmaster in the Varanasi Division of North Eastern Railway. Although the promotion was initially for six months, the applicant continued on the post for more than three years until the impugned order was issued reverting him to lower substantive post. The applicant submitted representation against the order of reversion and his case was recommended by the Divisional Railway Manager Varanasi to the General Manager North Eastern Railway on the ground that juniors to the applicant in other divisions were continuing on the higher post. The General Manager in reply directed the D.R.M. to take up the case for creation of supernumerary post to accommodate the applicant. However no such post was created and the applicant retired from service. He thereafter approached this Tribunal for the reliefs aforementioned.

3. The respondents in the counter affidavit have stated that the applicant was promoted on adhoc basis and as a result of the reduction in number of higher grade post he was reverted to the substantive post of Yardmaster. It has been also stated that the applicant has not sustained any loss of emoluments. In suppl. affidavit filed by the respondents, it has been stated that the case was taken up by the Personnel

Department for creation of supernumerary post to accommodate the petitioner but the proposal was turned down by the Accounts Department on the ground that from 6.6.86 the post of Chief Yardmaster had become Divisional Control Post and on scrutiny one post of Chief Yardmaster in the pay scale Rs. 2000-3200 had been surrendered on 1.4.89 resulting in reversion of the applicant.

4. We have heard the learned counsel for both the parties and carefully considered the pleadings on record.

5. There is no doubt that applicant was promoted temporarily for a period of six months, as would be clear from the order of promotion annexed as Annexure-3 to the suppl. affidavit. The fact however remains that the applicant continued on that post for more than three years. It is also not the case of the respondents that the promotion of the applicant was not regular. The only reply why the applicant was reverted was that the post was reduced from the sanctioned strength. The fact that persons junior to the applicant in the other divisions were working on the higher post has not been denied by the respondents. In fact it is clear from the Annexure that the D.R.M. of the Division himself realised the hardship caused to the applicant and recommended that he should be allowed to continue on the higher post. It is also clear that the General Manager of the Division recommended that a supernumerary post be created to accommodate the applicant. In other words the respondents themselves realised that the applicant was being unfairly reverted when his juniors in the other divisions were working on the higher post. However the efforts of the local administration to create a supernumerary post were frustrated by the Accounts Department who had their own grounds for rejecting the proposal.

W.C.

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6.. We have carefully considered the material, ^{or record,} we are of the view that the case of the applicant has merit. If his juniors were retained in other divisions either the applicant should have been continued on the higher post by creating supernumerary post as suggested by the General Manager or he should have been transferred to another division where his juniors were working and his junior could have been reverted to accommodate the applicant. As neither of these actions were taken the applicant has suffered. If the post has become Divisional ~~Control~~ Post the respondents should have obtained consent of the applicant before ordering his promotion to the division outside his parent division.

7. In view of the foregoing, the application is allowed in part. The impugned order of reversion is quashed. As the applicant has already retired from service we direct the respondents to fix the pay of the applicant as if he was never reverted until the date of his superannuation and based on the refixed pay on the date of superannuation his terminal benefits shall be recalculated, and all arrears will be paid to him within the period of four months from the date of communication of this order. In case the benefits are not granted within the period specified the applicant will be entitled to 18 per cent interest per annum on all the amount due to him from the date of completion of four months from the date of communication of this order till the actual payment of arrears. The applicant however will not be entitled to any arrears of salary from the date of his reversion till the date of superannuation as he did not work on the higher post during this period.

8. With the above directions the application is disposed of with no order as to costs.

L. Ahm
Member - J

W. C.
Member - A