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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.A.No.1557 of 1992.

Khaliq Ali

... Applicant

Versus

Union of India & Others

... Respondents

HON'BLE MR. JUSTICE R.K.VARMA -VICE CHAIRMAN
HON'BLE MISS USHA SEN -MEMBER (A)

(By Hon'ble Miss Usha Sen, A.M.)

The relief sought ~~for~~ in this application is to set-aside the reversion/posting order dated 21-8-1992(Annexure A-1) in so far as it relates to the applicant. The order ~~is~~ proposes to change the posting of the applicant from Electrician (Rs.1320-2040) to Fitter Grade I(Rs.1320-2040) at Allahabad(TL).

2- The case of the applicant is that when he was working as Fitter Grade I in the scale of Rs.1320-2040 at Manikpur under the divisional control of the D.R.M., Central Railway, he applied for appearing in the written suitability examination for promotion as Electrician (which has an identical pay scale of Rs.1320-2040) in response to the letter dated 21-5-1990 (Annexure A-2) inviting such applications. The examination was held on 20-8-1990 and the applicant was declared successful. ^{Thereafter} Therefore, he was posted as Electrician at Allahabad vide the order dated 23-10 -1990(Annexure A-4). Though the posts of Fitter Grade I and Electrician have the same pay scale, the post of Electrician is stated to be the next stage of promotion for those working as Fitter Grade I. The applicant claims that he was promoted as Electrician on a regular basis after passing the required examination. The respondent No.2 passed an order dated 21-8-1992(Annexure A-1) reverting the applicant to the post of Fitter Grade I. The applicant has challenged the order on

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the ground that he could not have been reverted since his promotion
had been made on a regular basis. Hence the order ^{is} illegal and arbitrary.

He has further stated in his rejoinder that as he had completed 18 months
of service as Electrician he could not have been reverted without
following the Discipline and Appeal Rules.

3- The case of the respondents is that the applicant was
promoted on an ad-hoc/provisional basis. They state that as no one
was available to fill the post of Electrical Foreman (Rs.2000-3200)
on a regular basis a chain of ad-hoc promotions in lower grades had
to be made to make stop gap arrangements to carry on the work in the
absence of a suitable hand being available to ^{fill} make the post of Electrical
Foreman. The post of Electrical Foreman fell vacant on 21-10-1990.
The applicant was promoted on a provisional basis against an existing
vacancy by the order dated 23-10-1990 (Annexure A-4). They further state
that as a result of the final departmental test Shri Shashi Kumar Thakur
was appointed to the post of Electrical Foreman resulting in a chain
of reversions to the substantive posts of the incumbents vide the
impugned order dated 21-8-1992. The applicant was also posted back
as Fitter Grade I as a consequence of this claim of reversions.

4- ^{It is seen that} The order dated 23-10-1990 ibid does not mention that the
appointment of the applicant as Electrician in the Grade Rs.1320-2040
is on an ad-hoc basis. Nor does it state that it is on a provisional
basis in order to make stop-gap arrangements as mentioned above. There
is however, a mention which appears to indicate that the promotions as
^{the} ~~per~~ mentioned in this order were provisional because of pendency of some

cases in the Supreme Court. Assuming that the promotion of the applicant was on a regular basis otherwise than on account of the pendency of the cases in the Supreme Court, it is considered that the applicant cannot claim to have a right to ^{> This post} occupy even if the vacancy ceased to exist as a consequence of the ^{> claim} of reversions mentioned above because there is no indication that he had been promoted as Electrician (S.1320-2040) in a substantive (permanent) capacity. Promotion on a regular basis can be in an officiating capacity or a substantive capacity. As the order dated 23-10-1990 does not state that the promotion was in a substantive capacity and the respondents have stated that the reversions to substantive grades of various incumbents became inevitable due to the post of Electrical Foreman being filled on a regular basis resulting in the posting of the applicant back as Fitter Grade-I we are unable to grant the relief of quashing the impugned order dated 21-8-1992 so far as it relates to the applicant. The contention of the applicant that he cannot be ^{> under Discipline and} reverted without following the proceedings, Appeal Rules because he had worked on the post for more than 18 months cannot also be accepted because the Railway Board's circulars on this issue relate only to reversions made on account of unsatisfactory work and not in cases where reversion becomes inevitable for want of a vacancy. During the course of hearing of this case the counsel ^{> fr} of the applicant prayed that a direction be issued to the respondents to consider appointment of the applicant as an Electrician (S.1320-2040) in any existing vacancy if he is the senior most for such an appointment. This is a fair and just prayer and we direct the respondents accordingly,

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as per this prayer. With this direction, the O.A. is disposed
of. No order as to costs.

Umesh Deo
MEMBER (A)

R K Varma
VICE CHAIRMAN

DATED: Allahabad April 11, 1994.

(ISPS)
