

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 24th day of May, 2000.

CORAM: Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. Rafiq Uddin, Member (J)

ORIGINAL APPLICATION NO. 1234/92

Kumbh Karan Singh, Son of
Shri Mahadeo Singh, Dak
Courier, under Permanent
Way Inspector, Northern Railway,
Varanasi.

..... Applicant

C/A Shri Vipin Sinha

Versus

1. The Union of India-through its
General Manager, Northern
Railway, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Lucknow.
3. The Divisional Superintending
Engineer, Northern Railway,
Lucknow.
4. The Divisional Engineer,
Northern Railway, Varanasi.
5. The Permanent Way Inspector,
Northern Railway, Varanasi.

..... Respondents

C/R Shri Prasant Mathur

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On which he has been continuously working as Dak Courier
from 01.09.90. However all of sudden and without

ORDER

(By Hon'ble Mr. Rafiq Uddin, Member (J))

The applicant seeks quashing of the order dated 13th August 1992 passed by the Permanent Way Inspector, Varanasi (Respondent NO. 5) and also the notice passed by the divisional Railway Manager, Lucknow (Respondent NO. 2). By the order dated 30th August 1992 the applicant has been spared from the post of Dak Courier and has been directed to work as Gangman in his parents cadre. The respondent No. 2 vide notice (Annexure D) at directed the details of persons who are working as Dak Courier and office Khalasi without approval of the D.R.M. and other authorities to be sent to him.

The applicant was initially appointed as Casual Labour Gangman in the year 1974 and in due course was appointed as Gangman on regular basis under the supervisory control of P.W.I Varanasi (Respondent No. 5). According to the applicant in the month of the May, 1990, Assistant Engineer and Northern Railway invited applications from amongst the literate Gangman serving under the control of the respondent No. 5 for being promoted as Dak Courier. In the suitability test for the post of Dak Courier, the applicant was declared successful and was appointed as Dak Courier vide dated 31st August 1990. a copy of which is annexed to this O. A. The applicant also claimed, that he was promoted as Dak Courier against the permanent sanctioned post. On which he has been continuously working as Dak Courier from 01.09.90. However all of sudden and without

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issuing any show cause notice the respondent No. 5 vide impugned order reverted the applicant from the post of Dak Courier to the post of Gangman. The applicant is stated to have been reverted from the post of Dak Courier, on the basis of communication which has been annexed as Annexure D.

The applicant has claimed that the respondent No. 5 is not competent to revert him from the post of applicant because the appointing authority of the applicant is the Assistant Engineer, not P.W.I (Respondent No. 5). The order has been passed without issuing show cause notice hence it has been passed in violation of principle of natural justice and is arbitrary and illegal. It has been also been claimed that since the applicant was appointed against permanent post there was no necessity of approval, prior to his appointment.

The case of the respondents is that the post of Dak Courier is newly created purely temporary post. There is no specific qualification prescribed for the post of Dak Courier. The applicant was inadvertently ordered to work as Dak Courier without approval of the competent authority namely the D.R.M. Northern Railway, Lucknow. The main contention of the learned counsel for the respondents is that the applicant was appointed as Dak Courier inadvertently without approval by the competent authority namely D. R. M. Hence his appointment was illegal abinitio. In support of his contention he has drawn our attention para-227 of Indian Railway establishment manual volume-I which is a under-

“ The Competent Authority may transfer a Railway servant from one post to another,

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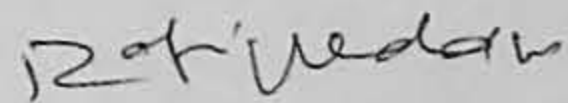
provided that except:-

- (i) On account of efficiency or misbehaviour or,
- (ii) On his own written request."

Learned counsel for the respondents has also filed a copy of order dated 02.12.92, passed by this Tribunal in O. A. No. 175/95 in which it was held that the category of the applicant having not been transferred by the competent authority, the transfer from the post of Gangman to Dak Courier by assistant engineer was not legal. We also agree with this view and hold that the impugned order does not suffer from any illegality. Accordingly O. A. is liable to be dismissed, no order as to costs.



Member (A)



Member (J)

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