

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 15/10 day of NOV 2000.

C O R A M :- Hon'ble Mr. Rafiq Uddin, Member- J.
Hon'ble Mr. S. Biswas, Member- A.

Original Application No. 35 of 1993

Shatrughan Prasad, S/o Late Shohan Lal
R/o Jatepur North Kali Sthan
P.O. Gorakhpur, P.S Gorakhpur, Distt. Gorakhpur

..... Applicant

Counsel for the applicant:- Sri K.C. Sinha

V E R S U S

1. Union of India through
The General Manager, N.E. Railway, Gorakhpur

2. Chief Mechanical Engineer, N.E. Railway
Gorakhpur.

3. Chief Personal Officer, N.E. Railway,
Gorakhpur.

4. Chief workshop Manager (Personal) Loco Workshop
N.E. Railway, Gorakhpur.

..... Respondents

Counsel for the respondents :- Sri V.K. Goel
S R Sri A.K. Gour

O R D E R

(By Hon'. Mr. S. Biswas, Member- A.)

In this application, filed under section 19 of the Administrative Tribunals Act, 1985 the applicant has sought the following reliefs:-

(i) quashing the order dt. 29.12.92 (annexure-12

to the O.A); cancelling the examination and order dt. 29.12.92 reverting the petitioner (annexure- 13 to the O.A) and

(ii) direction to the respondents for giving all the benefits and priviledges on the post of Chargeman Gr. 'B' as if no such cancellation order dt. 29.12.92 was passed.

2. The petitioner was initialy engaged as a Khalasi on 02.12.75 in the scale of Rs. 196-232/- As a confirmed railway employee belonging to S/C category, when he was working as a Skilled Mechanic Gr. I, he was placed at the provisional seniority list of S/C employees in Skilled Mechanics Gr. I at Sl. No. 1 alongwith two others. On 31.08.92 he thus became eligible for sitting for the exam and viva-voce test for Chargeman Gr. 'B' in the scale of Rs. 1400-2300/- which he awailed on 15.09.92 (written) and 13/15 October, 92 (Viva). He was accordingly promoted to the grade of Chargeman Gr. 'B' as per promotion order dt. 23.10.92. He took over the charge of promotional post on the same day and recieved the pay for the month of November, 1992. On 29.12.92, The Chief Works Manager (respondent No. 4) informed vide letter dt. 29.12.92 that both the result of the said pretest and the promotion order dt. 23.10.92 stood cancelled and the applicant was reverted .

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3. According to the applicant the promotion was awarded after fulfilling all the requirements such as seniority, protest of written exam and viva-voce. Hence the reversion order dt. 29.12.92 and the cancellation of the result are illegal as the principles of natural justice were no observed.

4. We have heard the rival counsels for the parties on facts and law and find that the applicant's are based on the tenor of Allahabad High Court case in Dr. Avneesh Kumar and ors. vs. Director, Indian Veterinary Research Institute, Bareilly & ors. (Civil Misc. Writ Petition No. 15467) where it has been held that when all the requirements of a valid promotion have been fulfilled, the applicant could not be reverted without giving the applicant show cause notice and observing the principles of natural justice.

5. Having gone through the records including the promotion order dt. 23.10.92 and the cancellation of result order dt. 29.12.92, which was issued after two months, we find that the promotion was made ^{admittedly}, by both the applicant and the respondents, on the basis of a provisional seniority list ^{and} that a case on seniority was already pending before Hon'ble Supreme Court is also mentioned in the promotion order, which itself has been issued provisionally and the promotion was liable to be cancelled without any stipulation of notice. The reversal is a follow up of his condition of ^{as} provisional order. No irreversibility has been required under this provisional order. We also observe that the promotion (D.P.C and test) was held on the basis of an ~~out~~ and ~~out~~ provisional seniority list of Skilled Mechanic Gr. I which was published only on 31.08.92 and the period for objection petition to be filed by the candidates and

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and their objection decided was not over nor completed. In the seniority dt. 28.06.91 which is of earlier date the name of seniors (Raj Nath) were totally omitted. The respondents also submitted that two posts of S/c ^{and one} and one general and as per formula 3 S.C and 3 general senior most employee were called for selection. However, the name of the senior most employees were left ^{out} and juniors were called for selection. The names of 4 such seniors to the applicant including 2 S/cs were thus omitted from the list of candidates for selection test.

6. In our view, the promotion exam was held without fulfilling all the preconditions of a valid test like a valid seniority list and even the promotion order was kept provisional. The case cited by the applicant is out of context. We therefore find no reason to interfere with the orders dt. 29.12.92. The O.A is dismissed.

7. There will be no order as to costs.

S. Anand
Member- A.

R. V. Reddy
Member- J.

/Anand/