

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 22nd day of November, 2000.

C O R A M :-

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Mr. V.K. Majotra, Member- A.

Original Application No. 02 of 1993

Moti Ram a/a 42 years, S/o Late Agan Swarup,  
R/o Mohalla Sarai Kona, Amroha,  
Distt. Moradabad.

..... Applicant.

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

V E R S U S

1. Union of India through the General Manager (P)  
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway,  
Moradabad.

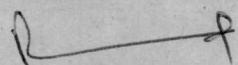
..... Respondents.

Counsel for the respondents:- Sri A. Sthalekar

O R D E R (oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

The facts in short giving rise to this  
application are that the applicant was serving in



the in the Railways as Head Clerk in Personnel Branch. By order dt. 01.05.87 applicant was promoted as Asstt. Superintendent in the Gr. of Rs. 1600-2660 (RPS). This promotion was on ad-hoc basis. However, by order dt. 12.11.92 applicant and one Sri Ved Mani Sharma were reverted to the post of Head Clerk in the grade of Rs. 1720-2150/- with immediate effect. The reason stated in the order was that as they did not appear in the selection in terms of C.P.O, New Delhi's D.O No. 752/E/190-MB/ELLD dt. 03-11-92. Sri Ved Mani Sharma filed O.A No. 01/93 which was allowed by D.B of this Tribunal on 25.04.95. Order has become final. Hon'ble Members gave the following reasons for accepting the claim of Ved Mani Sharma :-

".....The first date of the written test was on 14.11.1992. The respondents had no means of knowing that the applicant would not appear in the said test or in the supplementary test held on 21.11.92 when they issued the impugned order on 12.11.92. Though, the respondents have tried to explain away this apparent discrepancy in their reversion order stating that the competent authority had decided not to continue the adhoc promotion, it is apparent from the facts averred that the respondents had already come to a conclusion that the applicant would manage to avoid appearing in the written test and thus, issued the order on 12.11.1992 even before the actual test, were held. ....In our view, the proper course would have been to make an inquiry with regards to the nature of illness and thereafter, come to the conclusion that the applicant was deliberately avoiding appearance in the examination. "

2. By the same order dt. 12.11.92 applicant had also been reverted. There can not be any <sup>reason</sup> ~~connection~~

for passing this order as the selection had not taken place, though only process for selection was under taken. secondly, the respondents wanted to know whether the applicant had appeared in the written test or not. On behalf of the respondents in C.A this laps in the order has been tried to explain by showing that the applicant <sup>was</sup> out of zone of the consideration and he was not appeared in the test. Further we are not convinced with other explanations. <sup>On</sup> ~~is~~ this point the language used in the order is also different. It would <sup>have been</sup> ~~not~~ sufficient for the respondents to make mention in the order that the applicant is not likely to be invited to appear in the selection. Further, <sup>strange</sup> ~~favourable~~ view of the matter is that the selection had not taken place and the order of reversion was passed.

3. In our opinion this application <sup>is</sup> ~~is~~ also deserves to be allowed for the similar reasons as stated in the case of V.M. Sharma. The order of this Tribunal against order passed in favour of Sri V.M. Sharma has become final.

4. In view of the aforesaid discussion this application <sup>is</sup> ~~is~~ allowed. The impugned order dt. 12.11.92 is quashed. Applicant shall be deemed to continue on the post of Assistant Superintendent on ad-hoc basis. and <sup>fixation of</sup> ~~fix~~ his pay with retrospective date. However, <sup>as</sup> ~~he~~ has not worked on the post, he <sup>shall</sup> ~~is~~ not be entitled for arrears. The applicant shall be allowed to appear in the next test held for selection of Assistant Superintendent and if he qualified the test and selected he shall be given seniority from the date he was promoted on adhoc basis as now he has completed more than 13 years as Asstt. Superintendent. No costs.

/Anand/

*V. Majhi*  
Member - A.

*[Signature]*  
Vice-Chairman.