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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 814 of 1993

This ..23rd.. The Day of .November, 1994

Indra Pal Singh S/O Late Shri Phool Singh
aged about 31 years, R/O Behind Railway Colony
Bijnor, District Bijnor

.... Applicant.

By Advocate Shri O.P.Gupta

Versus

Union of India & Ors.

.... Respondents.

By Advocate Shri C.S.Singh

G O R A M

Hon'ble Mr. S.Das Gupta, Member-A

Hon'ble Mr. T.L.Verma , Member-J

O R D E R

Hon'ble Mr. S.Das Gupta, Member-A

This application under Section 19 of the Administrative Tribunal's Act has been filed praying for the relief of regularisation of the applicant on the post of Wireman w.e.f. 19.04.1990 quashing the order dated 06.04.1993 (Annexure A-5) and also to grant all consequential benefits to the applicant.

2. The applicant in this case was initially appointed as Chowkidar by an order dated 01.08.1978. He was granted temporary status w.e.f. 29.11.1989 on the post of Chowkidar. He was appointed as Wireman vide order dated 29.05.1990 after his name was sponsored

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by the Employment Exchange. He was granted regular scale of pay on the post of Wireman by order dated 12.09.1991. However, by the impugned order dated 03.07.1992, the appointment of the applicant on the post of Wireman was cancelled treating the same as irregular. This order was challenged before this Tribunal in O.A. No. 914 of 1992. The Tribunal, by its order dated 15.10.1992 quashed the impugned order giving opportunity to the respondents to consider the case of the applicant for regularisation and in case he cannot be regularised on the post of Wireman, to send the applicant back to his original post of C.P. Chowkidar. It appears that, thereafter, the respondents have issued impugned order dated 06.04.1993 (Annexre-5) by which the applicant has been reverted back to the post of Night Chowkidar. This order is under challenge before this Tribunal.

3. The basic facts of the case are not in dispute. In the Counter Reply submitted by the respondents, it has been stated that the applicant was appointed as an Out-Sider Wireman. Thereafter, the C.P.M.G. U.P. Circle, Lucknow directed all the Divisional Heads to regularise the appointment of Wireman and to take action to fill up the post of Wireman if any, after convening the D.P.C. It has been further averred that the applicant was, thereafter appointed as Wireman in Bijnore Division on adhoc basis subject to the decision of the D.P.C. vide order dated 12.9.1991 without going through the procedure mentioned in the C.P.M.G. letter. Subse-

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Subsequently, it was found out that the appointment was irregular and after making inquiries, the Director of Postal Services of the P.M.G. Dehradun came to the conclusion that the appointment was irregular and the same should be cancelled and accordingly, the appointment was cancelled vide order dated 03.07.1992 which was subsequently quashed by this Tribunal.

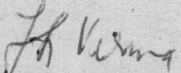
4. We have seen the initial order of appointment of the applicant as Wireman as contained in the office order dated 25.09.1990 in which it has been specifically mentioned that the applicant is being engaged as an Outsider Wireman. For appointment as an Outsider Wireman, it is necessary to follow the procedure indicated in the relevant recruitment rules. It is not clear whether such procedure was followed. *An the* subsequent appointment notified vide order dated 12.09.1991 (Annexure A-2), it has been indicated that the appointment of the applicant on the post of Wireman is subject to the approval of the D.P.C. It would appear from this order, that the appointment of the applicant is not as an Outsider Wireman but as a departmental candidate being promoted subject to D.P.C's approval. It has ~~not~~ neither been averred by the applicant nor has it been indicated by the respondents in their Counter Affidavit as to whether the applicant is the senior most among the group 'D' employees who are eligible to be considered for promotion to the post of Wireman in terms of the relevant recruitment rules. Whatever the position

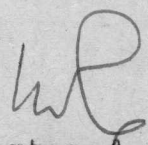
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be, the fact remains that the applicant was not empanelled by a regularly constituted D.P.C. and in that view of the matter, his appointment as Wireman was not a regular one and therefore, further continuance on regular post would have required clearness by the regularly constituted D.P.C.

5. In view of the foregoing discussions, we are not in a position to come to a definite conclusion, as to whether the applicant is entitled to be regularised in service as Wireman. We, therefore, direct the respondents to consider the case of the applicant for such regularisation in case he is otherwise eligible for the same by convening the regular D.P.C. We have already passed an interim order by which the applicant is continuing on the post of Wireman. Let the consideration of the applicant for the regularisation be completed within a period of 3 months from the date of communication of this order and till that time, the interim order already passed, shall be operative.


Member-J


Member-A

/jw/