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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 462 of 1994

Allahabad this the 11th day of Oct 1995

Hon'ble Mr. S. Das Gupta, Member (A)
Hon'ble Mr. T.L. Verma, Member (J)

Parsooti Singh, S/o Shri Lala Ram Jatav, R/o R.N.-I/16
-H, RE Colony, Mathura Junction.

APPLICANT

By Advocates 1. Shri S.C. Verma.
2. Shri S.K. Dey.
3. Shri S.K. Misra.

Versus

1. The Divisional Rail Manager, (Personnel), Central Railway, Jhansi.
2. The Assistant Electrical Engineer (Traction & Distribution), Central Railway, Mathura Junction.
3. The Senior Divisional Electrical Engineer (Traction & Distribution), Central Railway, Jhansi.
4. Union of India through General Manager, Central Railway, Bombay V.T.

RESPONDENTS

BY Advocate Shri A. Sthalekar.

O R D E R (Oral)

By Hon'ble Mr. S Das Gupta, Member (A)

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the relief of quashing the impugned order dated 04.3.1994 passed by the Div. Railway Manager by which the applicants has been

reverted to a lower post of Peon. It has also been
prayer that ~~allow~~ ^{be allowed} the applicant to continue to work
as an ad-hoc junior clerk in the office of Assistant
Electrical Engineer(D), Central Railway Mathura
Junction till a regularly selected candidate joins
the said post. A further prayer is that the result
of the examination held on 25.4.1992 in respect of
S.C. vacancy for promotion to the post of Junior
Clerk be declared.

2. The admitted facts of the case are that
the applicant, who belongs to S.C. community, was
promoted on ad-hoc basis to the post of Junior Clerk
in the pay scale of Rs.225-308/- by downgrading a post
of Clerk in the pay scale of Rs.260-400/-. This promotion
was ordered by the Office order dated 24.10.86 (Ann.A-2)
It is stated that since then, the applicant had been
working on ad-hoc basis on the higher post of Junior
Clerk until the issuance of the impugned order
dated 04.3.1994, by which he was reverted to the
lower post of Peon. This order was, however, stayed
by the interim order passed by this Tribunal and since
then the applicant had been working on the higher post
by virtue of the interim order.

3. It has also ^{been} averred by the applicant that
a Selection examination for the regular promotion to
the post of Junior Clerk in the 33 1/3% quota for the
departmental candidates was held in 1992. This
examination was held for five general vacancies
and 1 S.C. vacancy. The result of the said
..... pg.3/-

examination was declared by the order dated 10.12.1992 (Annexure A-8) which indicate that the results were in respect of the general vacancy only and the result in respect of S.C. candidate was being withheld. Being aggrieved by this, the applicant has sought the relief afore-mentioned including that for declaration of the result of 1992 examination in respect of the S.C. vacancy.

4. The respondents have filed written reply in which it has been stated that the applicant was working as a Office Peon in the pay scale of Rs.196-232/-, whereas the grade of Junior Clerk is two grades higher i.e. Rs.260-400/-. A post of Junior Clerk was down graded to that of Rs.220-308/- against which the applicant was promoted. This promotion was purely on ad-hoc basis and applicant had not been promoted after appearing in the regular selection test. It has been admitted that the applicant was allowed to continue on ad-hoc basis till the issuance of the impugned order dated 04.3.1994. It has been further stated that an ad-hoc promotion did not confer any right on the applicant for continuing in service. As regards the Selection test held in 1992, it has been admitted that the applicant had appeared in the said examination but, his result has been withheld, as he allegedly adopted unfair means, and the matter is under investigation by the vigilance department.

5. The rejoinder affidavit has been filed by the applicant in which apart from reiterating the contention in the O.A., it has been denied that the applicant had adopted unfair means in the Selection test.

6. We have heard the learned counsel for the parties and have perused the record.

7. Admittedly, the applicant was appointed on ad-hoc basis and this ad-hoc appointment was not based on his empanelment after passing proper selection test. It is well settled principle of law that such ad-hoc promotion ~~did~~ ^{would} not confer any right on a promotee to continue on a promotional post or for getting seniority. This principle was very clearly enunciated in the case of Jetha Nand's reported in 'Full Bench Judgments of C.A.T. (1986-89)' page 353, decided on 05.5.1989 in T.A No.844/86. Learned counsel for the applicant has relied on the Judgment of Supreme Court in the case 'Union of India and Others vs. Bigyan Mohapatra and Others' reported in 1993(1) UPLBEC 558'. His contention is that since the post of S.C. quota is still available and has not yet been filled, the applicant should be allowed to continue to work on ad-hoc basis until regular promotee is appointed. We have carefully gone through the said decision and we do not find that the decision in any way supports the contention of the learned counsel for the applicant that even if, vacancy does exists, there is ~~no~~ ^{any} right on the part of the applicant to continue indefinitely and to officiate ~~on~~ the higher post.

8. We have, however, noted that the applicant did appear in the proper selection test and his result has been withheld. The respondents contend that because

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J. Murphy
unfair means, the result was withheld, which has been denied by the applicant in his rejoinder-affidavit. We do not propose to enter in this controversy. We only note/ that while examination was held as far back as in 1992, the result still has not been declared although sufficient time have elapsed since then. In view of the

In view of the foregoing, the application is partly allowed. We direct the respondents to complete the investigation with regard to adoption of unfair means or otherwise by the applicant in the examination held in 1992 and to declare the result in respect of S.C. vacancy, within a period of 2 months from the date of communication of this order. There will be no order as to costs. The interim order passed earlier is vacated.

J. Murphy
Member (J)

W.C.
Member (A)

/M.M./