

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 1ST DAY OF FEBRUARY, 2002

Original Application No. 1176 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

1. Chandra Mani, a/a 46 years, son of Sri Mata Jiyawan, presently posted as Driver Grade-II in the office of Asstt. Engineer, Northern Railway, Fatehpur.
2. Shri Gyanendra Singh, a/a 41 years son of Sri Ram Narain, presently posted as Driver Grade-I, in the office of Asstt. Engineer, Northern Railway, Fatehpur.

... Applicants

(By Adv: shri Sudhir Agrawal)

Versus

1. Union of India through the Secretary Ministry of Railways, New Delhi.
2. The Divisional Engineer(Path-ways) Northern Railway, Allahabad.
3. The Divisional Railway manager, Northern Railway, Allahabad.
4. The Assistant Engineer(Path-ways) Northern railway, Fatehpur.

... Respondents

(By Adv: Shri A.V.Srivastava)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

These applicants have filed this OA u/s 19 of A.T.Act 1985 challenging the order dated 21.7.1994(Annexure 1) by which a direction was given to revert all the drivers in Section from Grade I and Grade II to Grade III as these promotions of the drivers were ~~then~~ <sup>given</sup> at the level of Asstt. Engineers. In pursuance of

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this direction the actual reversion order was passed on 25.7.1994(Annexure 2) which has also been challenged.

Shri Sudhir Agrawal learned counsel for the applicant has submitted that from the service record of the two applicants it is clear that applicant no.1 Chandra Mani was promoted as Driver Grade II after passing Trade test held in 1989. By order dated 26.10.1989 he was promoted as Driver Grade II in the scale of Rs1200-1800 with the approval of Senior Divisional Engineer III Allahabad. Similarly, applicant no.2 was promoted as Driver Grade-I after passing trade test vide order dated 23.11.1989 with the approval of Senior Divisional Engineer-III, Allahabad. Both the applicants were thus working on the promotion as Driver Grade II and Driver Grade I respectively since 26.10.1989. They have been suddenly reverted under the impugned orders without giving any show cause notice and without giving opportunity of hearing. It is submitted <sup>that</sup> ~~the~~ the orders are liable to be quashed as they have been passed in an arbitrary manner and in violation of principles of natural justice. It is also submitted that applicants were promoted with the approval of Senior Divisional Engineer and not by Assistant Engineer and the condition provided in the order dated 21.7.1994 was not satisfied and the impugned order is liable to be quashed on the ground also.

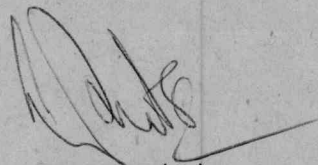
Shri A.V.Srivastava, learned counsel for the respondents, on the other hand, submitted that it was a work charged establishment where the applicants were serving as Driver Grade II and Driver Grade I respectively and for promotion from Driver Grade III to Driver Grade II and Grade I approval of Senior Divisional(Personnel) Branch, is necessary and the promotion of the applicants was irregular and they have been rightly reverted. However, Shri Srivastava could



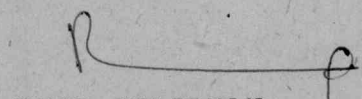
not give any explanation as to why the applicants were not given opportunity of hearing before passing the impugned orders.

We have considered the submissions of the counsel for the parties. In our opinion, the impugned orders dated 21.7.1994 and 25.7.1994 cannot be sustained for the short reason that they were passed against the applicants without giving opportunity of hearing. It is not disputed that both the applicants had worked for about 5 years on the promotion post and if there was any irregularity(though not admitted by the applicants) the respondents ought to have passed the orders after giving show cause notice and hearing to the applicants. Thus, the applicants are entitled for relief.

For the reasons stated above, this OA is allowed. The impugned order dated 21.7.1994 so far it affects the applicants and order dated 25.7.1994 are quashed. There will be no order as to costs.



MEMBER (A)



VICE CHAIRMAN

Dated: 01.2.2002

Uv/