

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD.

Allahabad this the 25th day of January 1996

Original Application No. 575 of 1995.

Hon'ble Mr. T.L. Verma, JM

Hon'ble Mr. D.S. Baweja, AM

Brij Mohan S/o Sri Som Dutt,
R/o R.B.I., 256-E, Agra Centt.,
Agra.

..... Applicant.

C/A Sri L.K. Dwivedi

Versus

General Manager, Central Railway,
Bombay, V.T., Bombay. & Others.

..... Respondents.

C/R Sri G.P. Agarwal

ORDER

Hon'ble Mr. D.S. Baweja, AM

The applicant has challenged and prayed for quashing the order dated 23.5.95, reverting him from the post of Junior Typist to that of Khalasi.

2. The applicant joined as a casual labour in 1981, and was made permanent from 18.11.90. He was promoted on ad-hoc basis as a junior typist vide order dated 8/10.11.1993, and joined duty on 12.11.93. The promotion order was issued by DyCE (c) Agra Cantt. and the applicant was promoted under Executive Engineer (Construction) Mathura Jn. vide impugned order dated 23.5.95 (A-1), ^{he} has been reverted to original post as a Khalasi.

3. The applicant has alleged that he has been continuously working for more than 18 months, and his work has been satisfactory as he had received award for excellent service.

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In terms of Central Railway H.O.'s letter dated 26.9.79, if any person completes 18 months continuous service in a grade satisfactorily, he is to be considered suitable to continue in that grade. Therefore, the applicant is entitled to continue as a Jr. typist. He has further contended that other employee such as Sarva Shri Sunil Kumar Manchanda, Virender Kumar and Om Prakash are also working on ad-hoc basis while the applicant has been reverted inspite of vacancy being available. The applicant has averred that he has also passed in the written test for the regular selection in Group 'C' as a Jr. Clerk, the result of which has been declared on 17.1.95 (RR-1) and therefore, he cannot be reverted. One Sh. Om Prakash who has failed in this selection is still being continued on ad-hoc basis. Reversion has been ^{also} ordered without giving any show cause notice. Action of the respondents in reverting the applicant is therefore illegal, arbitrary and discriminatory.

4. The respondents in the counter reply have refuted the averments made by the applicant. It has been submitted that the applicant was working in the construction organisation where all the posts are work-charged sanctioned for a specified period to complete specific projects. The applicant was promoted purely on ad-hoc basis as a local arrangement and this is quite clear from the order of promotion. Due to shrinkage of the cadre, the applicant became surplus and therefore reverted to his substantive post as a Khalsi. The circular dated ^{26.9.79} ~~17.1.95~~ is not applicable for ad-hoc promotions. As regards the staff promoted on ad-hoc basis and being continued, it is averred that the Sh. Sunil Kumar Manchanda is a regular Jr. typist and promoted on ad-hoc basis to the next higher grade. Other two employees are working as Jr. clerks and are very senior to the applicant. The selection referred to by the applicant is not yet completed as viva-voce test is still to be conducted.

5. We have heard the learned counsel for the applicant and the respondents. We have also carefully gone through the material placed on the record.

6. It is admitted fact that the applicant was promoted on ad-hoc basis as a local arrangement. He has claimed that he cannot be reverted in terms of the circular dated 26.9.79 (A-iv) as he has completed 18 months of satisfactory service. A careful reading of this circular will show that this is applicable for the regularly selected staff providing for a review to revert such staff if the performance is not satisfactory.

Employee working on ad-hoc basis can therefore, be reverted to his original post even after 18 months if he does not pass the selection. In this case, the applicant was promoted ~~on a~~ purely as a local arrangement on ad-hoc basis against the workcharged post sanctioned for a specified period and therefore cannot claim any protection. Learned counsel for the respondents also drew our attention to full Bench judgement "Suresh Chand Gautam Vs. U.O.I." reported in 1992 ATC Vol. 19 Page 664, wherein this issue has been already examined and in para 59(v) it has been decided as under :

"A railway employee holding a promotional post in ad-hoc capacity can be reverted to his original post at any time before the expiry of 18 months. Secondly, if he has not qualified in the selection test, he is liable to be reverted even after 18 months."

In view of the above, ^{the} contention made by the applicant is not tenable.

7. The respondents have also averred that there was ~~no~~ post of the Jr. typist and the applicant had to be reverted to his substantive post. The applicant has, however, countered that the vacancy was available and in support of this he has annexed letter dated 4.8.95, with the rejoinder indicating the sanction of the posts under DyCE (C) Gwalior. It is

seen that this letter covers the concurrence of the Accounts branch for the posts from 1.7.1995 to 31.12.95. The applicant has been reverted during May 1995. This sanction letter therefore, does not confirm that the post was available when the applicant was reverted. As submitted by the respondents, the work changed posts are sanctioned for a specific period for specific projects and the cadre is bound to change depending upon the progress of the works. Further the applicant has not indicated as to who are the incumbents working against the posts of Jr. Typist. It is also admitted fact that nobody junior to the applicant has been promoted against the alleged vacancy. In view of these facts, we are unable to accept the contention of the applicant that he has been reverted inspite the vacancy being available.

8. The next contention of the applicant that he has passed the regular selection of Group C is also not tenable as the result of written test only has been declared and viva-voce test is still to be done. Therefore, the selection is not yet complete and the applicant cannot claim that he has passed the selection. Further it is observed that the selection conducted is for the entire Division open to all the Group D staff and therefore, the applicant if selected and placed on the panel will have ^h get his chance for promotion as per the panel position.

9. The applicant has also pleaded that other staff have been continued on the adhoc basis while he has been reverted. From the details furnished by the applicant and the explanation given by the respondents for the same, it is seen that these staff are working on different posts. The applicant while working as a Jr. Typist cannot claim for his continuin on adhoc basis on this post on the plea of the adhoc arrangements against the other category of the posts being continue ^{are}

10. Considering the facts as brought out above, we find no merit in the application and the same deserves to be dismissed and is accordingly dismissed with no order as to costs.

S. H. Wey
Member (A)

J. H. Wey
Member (J)

Arvind.