

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 2^{1st} day of August 1996.

Original Application no. 702/of 1995.

Hon'ble Mr. T.L. Verma, Judicial Member
Hon'ble Mr. S. Dayal, Administrative Member.

Girraj, S/o Sri Pitamber, R/o Village Nawalpur, Post Mehrara, Tehsil Sadabad, Distt. Mathura, at present posted on the post of Mate under Permanent Way Inspector, Headquarter, Northern Railway, Tundla.

... Applicant.

C/A Sri S. Dwivedi, A. Dwivedi.

Versus

1. Union of India through the General Manager, N. Rly., Baroda House, New Delhi.
2. The Divisional Rail Manager, N. Rly., Allahabad.
3. The Divisional Engineer (Headquarter), N. Rly., Tundla.
4. The permanent Was Inspector, Headquarter, N. Rly., Tundla.

... Respondents.

C/R Sri G.P. AGARWAL

ORDER

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the Administrative Tribunals Act, 1985. It seeks following reliefs:-

- i. a direction to quash the order of reversion of the applicant from the post of mate to the post of Gangman.
- ii. a direction restraining respondents from reverting the applicant from the post of mate to the post of gangman.

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- iii. a direction restraining the respondents from interfering in performance of duties of mate by the applicant alongwith the direction to provide all benefits to the applicant attached to the post of mate.
- iv. award the cost of the application.

2. The facts of the case as narrated in the application are that the applicant was appointed as casual worker and remained as such from 1970 to 14.02.80. He was given C.P.C scale w.e.f. 15.02.80 and was posted as mate under the respondents. The applicant claim that the screening test was held and the applicant was found fit for the post of mate and was given the regular posting and pay scale of the post of Mate w.e.f. 23.09.84. He has mentioned that the pay scale of the post of mate was Rs. 950/- 1500/-. He has produced a copy of statement of Provident Fund Account and pass book of Provident Fund showing that the applicant's designation was mate. He has also produced a copy of attendance register, special duty pass, family pass and pay slip, which again mentions that the designation of the applicant is that of Mate. The applicant has also produced a copy of letter dated 17.08.94 sending him for training for the post of Mate from 19.08.94 to 10.09.94. The applicant claim, that he has completed the training successfully and was released from Training Centre, and, on 10.09.94, after completion of training, he was allowed duty on the post of Mate. The Divisional Personal Officer, N. Rly., Allahabad, issued 2 circulars, containing direction for confirmation of service of all the employees who were working on the same post for more than two years. He claimed that he was mentioned as Gangman for first time in the pay slip of

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May 1995. The applicant made representation dated 26.06.95 and, thereafter, his designation was corrected and was shown as Mate in the pay slip of June 1995. The applicant was ^{again} ~~given~~ mentioned as Gangman in the attendance register/Pay slip for the period from 15.07.95 to 14.08.95. Pay slip for the post of mate is 950-1500/- while the pay scale for the post of Gangman is Rs. 775-1025/-. The applicant claims that the action of the respondents in challenging his designation is arbitrary and illegal. The applicant claims that after his illness from 08.07.95 to 17.07.95, he was not allowed to work on the post of Mate, when he went to report but was directed to work as Gangman. He claims that the P.W.I. has informed him that the higher authority has passed the order of posting as Gangman but copy of that order had not been given to the applicant. He claims that the post of Mate is in class III, while that the post of Gangman is in class IV. He claims that no opportunity was given before he was posted as Gangman. His posting of Gangman amounted to reduction of rank, which can only be done after following the prescribed procedure. He claims that he is still continuing on the post of Mate and has not yet been served any order for his posting as Gangman.

3. Argument of Sri S. Dwivedi for the applicant and Sri G.P. Agarwal for the respondents were heard. CA and RA have been perused.

4. The respondents have mentioned in their CA that the employee can become Mate only after he serves as Gangman, and thereafter, he is promoted as Keyman and, thereafter, he is selected as a Mate. He has mentioned that the applicant has not undergone these stages and was never selected as a mate.

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They have said that the applicant came on transfer from P.W.I no. 2, Tundla, officiating as a Mate in the grade of Rs. 225-308/- (RS) w.e.f. 25.09.84 and his pay was fixed at Rs. 225/-. It is stated that the posting of the applicant was temporary and ad-hoc arrangement. They have stated that the applicant was not promoted as Mate but he was assigned duty on Ad-hoc basis. They have mentioned that the applicant was granted C.P.C scale as a Gangman and not as Mate. The screening of the applicant was made for the post of Gangman. They have produced a copy of the service records to show that the applicant was posted as a Mate on Ad-hoc basis. It is also mentioned that the applicant was sent for training of Mate because of safety considerations. He was neither selected nor promoted as Mate. The respondents has claimed that the posting of the applicant to the post of Gangman is not by way of punishment.

5. From the facts on record, one finds it to be true that the applicant was sent for training for promotion of Mate/Keyman from 19.08.94 to 10.09.94, but the very fact that he was sent for training for promotion as Mate shows that he has not till then been regularly promoted as Mate.

6. The applicant has produced various papers, in which his designation was shown as Mate. The respondent, do not contest the fact that the applicant was working as Mate. They merely said that the applicant was working as Mate on ad-hoc basis. This contention of the respondents appears to be validated from the facts of the case. Firstly the applicant claims to have been given C.P.C scale from his status as casual worker W.E.F 15.02.80 and promoted as Mate under the respondents.

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This contention is not supported by any documents. On the other hand annexure produced by the respondents alongwith their counter affidavit shows that the applicant was appointed as Gangman in the C.P.C grade of Rs. 200-250/- (RS). The same record shows that the applicant started officiating as Mate w.e.f. 25.09.84 on temporary and ad-hoc officiating post. Therefore, the contention of the applicant that he was regularly posted as Mate after regularisation from casual worker is not tenable. The mere fact that he was being mentioned as Mate in various documents of Railway while he was officiating on ad-hoc basis does not give him a right to hold the post. The applicant has not come up with any plea that persons junior to him were ^kworking as Mate, nor the applicant has produced any order of promotion as Mate. The charge of posting of the applicant from the post on which he was officiating on ad-hoc basis to a post which was held by him on substantive basis does not attract the provision of article 14, 16 and 311(ii) of the constitution. No opportunity of hearing was necessary in such a case.


7. Learned counsel for the applicant has cited the judgement of Suresh Chandra Vs. Union of India in OA 958 of 1989 delivered on 10.01.96. This judgement could not help to the applicant because ^{in that case} there was no document filed about reversion of the applicant from the post ^{of} coal checker to that of Coal Khalasi. This fact along with applicant's long assignment as coal checker resulted in the direction to the respondents for regularising the promotion of the applicant. Another case cited by the applicant is common judgement in OA 874/92, OA 1606/92, OA 1788/92, 1072/93, 1070/93 and 1071/93 in Moti Lal

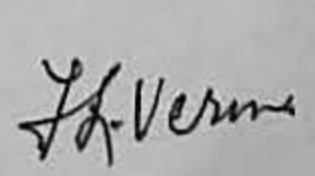
.....6/-

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Versus Union of India and others delivered on 29.01.94, ⁱⁿ in which all the applicants have been granted temporary status as Mate and, therefore, their ~~long graduation~~ ^{downgradation} to the post of Gangman has been set aside. In the case before us, the ~~the~~ applicant was given C.P.C scale as Gangman C.T.C w.e.f. 15.02.80. His ~~impanelment~~ in the category of Gangman w.e.f. order dated 07.11.84. The applicant was transferred to P.W.I, P.Q.R.S Tundla from P.W.I. II at Tundla and was officiating as Mate w.e.f 25.09.84. It appears that the applicant's transfer to P.W.I, T.B.T from P.W.I, P.Q.R.S w.e.f 08.04.92 and was again transferred to P.W.I./BALLAST Gangman, Tundla w.e.f 27.11.92. He continued to officiate as Mate during changes before 30.11.92. Even after he was ordered to be posted as Gangman w.e.f 30.11.92, The order of the Divisional Engineer dated 05.07.95 to the effect that Sri Girraj should be treated as Gangman instead of Mate shows that the applicant was officiating as Mate till 05.07.95. The total period of applicant officiating as Mate till the date of filing of the application was almost 11 years. Under the circumstances the impugned order of the Divisional Engineer (HO), Northern Railway, Tundla, treating the applicant as gangman without appointing some body ^{who} was senior or regularly promoted to the post of Mate ^{in place of} ~~the~~ the applicant can not be up held and has to be struck ~~down~~ down. The respondent shall have right to ^{place} the applicant by an ^{employee who is senior or} ~~official~~ who is regularly promoted to post of Mate ^{after} ~~by~~ obtaining recommendations ~~of~~ of The departmental promotion committee. Thus application succeeds to the extent mentioned in the last sentence.

8. Parties shall bear their own costs.


Member-A


Member-J

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