

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 451 of 2002

Allahabad this the 11th day of December, 2002

Hon'ble Mr.Govindan S. Tampi, Member (A)  
Hon'ble Mr.A.K. Bhatnagar, Member (J)

Abhilesh Kumar Upadhyay, Son of Sri Parsu Ram Upadhyay, Resident of Quarter No.242(C), New Railway Loco Colony, Chetupur, Varanasi.

Applicant

By Advocate Shri B.P. Srivastava

Versus

1. The Union of India through its General Manager, North Eastern Railway, Gorakhpur.
2. The Divisional Railway Manager(P), North Eastern Railway, Varanasi.
3. The Divisional Railway Manager, North Eastern Railway, Varanasi.
4. The Senior Divisional Operating Manager, North Eastern Railway, Varanasi.

Respondents

By Advocate Shri Anil Kumar

O R D E R ( Oral )

By Hon'ble Mr.Govindan S. Tampi, Member (A)

The relief sought for by the applicant- A.K. Upadhyay in this case is that the order dated 18.04.2002 reverting him from the post of Traffic Inspector be quashed and set aside with full consequential benefits.

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and returned to his own stream. The arguments raised on behalf of the respondents ~~is~~ that this was not in normal course of promotion, was improper as the respondents themselves have made a selection and they could not have turned around <sup>and cancels it</sup>. Learned counsel for the applicant has relied upon the decision of the Hon'ble Apex Court in the case of Narendra Chadha and Union of India A.I.R. 1966 S.C.638' to pursue and support his proposition that after a long time the respondents cannot take any action while reverting him. This was totally improper and should be set aside and the benefit be given to the applicant, is what Shri B.P. Srivastava pleads.

5. Strongly rebutting the case of the applicant, Shri Anil Kumar points out that the department had committed an error in 1996 when the individual was selected from the post of Deputy Chief Trains Controller to the post of Traffic Inspector. The avenue of promotion from the Traffic Controller post was not that of the Traffic Inspector. Therefore, after realising the mistake, the respondents have taken necessary corrective action. The original procedural infirmity which attached to the earlier order i.e. non issuance of the show cause notice, has been taken care of and the revised order has been issued for explanation on 12.03.2002. The applicant submitted his reply on 23.03.2002 without giving any specific explanation. Learned counsel for the respondents states that due to impugned order the applicant is not going to suffer any monetary loss as the pay scale of both the posts are same. Therefore, O.A. does not merit acceptance, according to Shri Anil Kumar.

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2. Heard Shri B.P. Srivastava, learned counsel for the applicant and Shri Anil Kumar, learned counsel for the respondents.

3. To state in brief the facts, the applicant who was originally appointed as Traffic Apprentice became Train Controller on 18.06.1986 and was thereafter promoted on the post of Deputy Chief Controller, Varanasi in the pay scale of Rs2000-3200/-, where on the basis of Notification dated 28.07.1995 he was selected to the post of Traffic Inspector in the same pay scale and was working on the post. However, on 19.12.97 he was reverted against which he had filed O.A.No.1461 of 1997, which was disposed off by the Tribunal on 18.7.01 with the direction that the respondents should have provided an opportunity to the applicant for being heard before passing the earlier order. Thereafter a show-cause notice was issued by the respondents on 12.03.2002 and after considering the applicant's representation dated 23.03.02, the impugned order dated 18.04.2002 has been passed. Hence, this O.A.

4. Shri B.P. Srivastava, learned counsel appearing for the applicant points out that the applicant has been having a total unblemished service record through out and he has been selected for the post of Traffic Inspector in response to the respondents own notification. The respondents have selected and appoint him as Traffic Inspector after fulfilling the necessary requirement. After one year the applicant was reverted from the post

6, We have carefully deliberated the rival contentions and perused the record.

7. What has happened in this case is that the applicant who was working as Trains Controller promoted and became a Deputy Chief Trains Controller, was selected by mistake and posted as Traffic Inspector in the year 1996. A mistake which was recognised, discovered and ratified by the respondents albeit one year and few months later, cannot be faulted. The respondents had originally committed a procedural infirmity by not issuing a show-cause notice, which was ratified after the order of the Tribunal in the O.A. No. 1461 of 1997. The impugned order dated 18.04.02 makes it explicit clear that the notification dated 28.7.95 was issued contrary to the A.V.C. of 1988 and the post of Traffic Inspector is a Selection post, therefore, the applicant could not have been promoted. There is no reason why this order of the respondents which has been issued after following the procedure, is interfered by us.

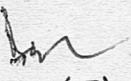
8. We have also gone through the order of the Hon'ble Apex Court in the case of Narendra Chadha (supra), in which it is stated that when an Officer has worked for a long period, for nearly 15 to 20 years on the post and had never been reverted, it cannot be held that he has no sort of claim to such post and could be reverted unceremoniously. To our mind, this decision of the Hon'ble Apex Court, does not help the applicant. This is a case where a mistake committed by the respondents has been ratified by them within one year and six months

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and that too after following requisite procedure in law. The result does not affect the applicant because no pecuniary loss or reduction in rank has been meted out to the applicant. Learned counsel for the applicant has argued that this impugned order might affect the future promotions of the applicant. This Tribunal cannot direct the respondents to promote a person of different stream. In our opinion, the impugned order is just and proper. The decision in the case of *✓ Narendar Chakraborty* by the applicant is of no avail to him as the facts are different.

9. In view of the above, we are convinced that the applicant has not made out any case for our interference. The O.A. is, therefore, dismissed. The interim order dated 23.04.2002 stands vacated.

NO COST.

  
Member (J)

/M.M./

  
Member (A)