

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No.717 of 2002

Wednesday, this the 5th day of March, 2003

Hon'ble Maj. Gen. K.K.Srivastava, A.M.
Hon'ble Mr. A.K.Bhatnagar, J.M.

Kameshwar Singh,
aged about 43 years,
Son of Shri Raja Ram Singh,
Resident of Rajiv Nagar,
Mahabeeran, Prem Nagar, Jhansi.

.....Applicant.

(By Advocate : Shri R.K.Nigam)

Versus

1. Union of India
through General Manager,
Central Railway, Mumbai CST.
2. Divisional Railway Manager,
Central Railway, Jhansi.
3. K.K.Sharma, Cable Jointer Grade II
C/o Sr. Section Engineer (Tele - South)
Central Railway, Agra Cantt.

..... Respondents.

(By Advocate : Shri K.P.Singh)

ORDER (ORAL)

By Hon'ble Maj. Gen. K.K.Srivastava, A.M. :

In this OA filed under Section 19 of the A.T. Act, 1985, the applicant has challenged order dated 13.5.2002 reverting the applicant from the present post of Cable Jointer Grade -I Rs.4500-7000 to the lower post of Cable Jointer Grade-II Rs.4000-6000. The applicant has prayed that the impugned order dated 13.5.2002 be quashed and direction be issued

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to the respondents not to revert the applicant from the post of Cable Jointer in the scale of Rs.4500-7000.

2. The applicant's case is that respondent No.3 was promoted as Cable Jointer Grade-III on the same date i.e. 22.11.1982. The applicant was promoted in Grade-II w.e.f. 10.9.1992, whereas the respondent No.3 was promoted with effect from 22.9.1992. The applicant was trade tested and promoted to Grade-I on 25.1.2000 and has completed more than 18 months, whereas respondent No.3 has not yet been trade tested.

3. Shri R.K.Nigam, learned counsel for the applicant submitted that the dates of promotion of the applicant and respondent No.3 to Grade-II are undisputed, In view of the findings in PNM, Counsel for the applicant has further submitted that the notice dated 26.9.2001 affecting the seniority of the applicant (Annexure-CA-1) was neither notified ^{nor} served upon the applicant. It is ^{clear} cut case of violation of Principles of Natural Justice.

4. The respondents have opposed the claim of the applicant and have filed Counter Affidavit. Shri K.P.Singh, learned counsel for the respondents submitted that the applicant joined Jhansi Division on his own request on 22.9.1987 and therefore his seniority was assigned from the date of his joining i.e. 22.9.1987. The respondent No.3 i.e. Shri K.K.Sharma joined Division on 17.9.1987, Therefore no irregularity has been committed by the respondents in assigning seniority vide notice dated 26.9.2001 (Annexure-CA-1). The learned counsel for the respondents submitted that the notice is addressed to all concerned for information of affected persons. Para 228

of the IREM Vol. I ^{is} laid down that administration is empowered to correct the erroneous promotions. The learned counsel for the respondents further submitted that the impugned order dated 13.5.2002 is as per rules and before passing reversion order, Principles of Natural Justice have ^{been} ~~already~~ been followed.

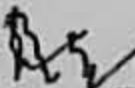
5. We have heard the counsel for the parties, considered their submissions and perused the record. From perusal of letter dated 26.9.2001 (Annexure-CA-1), it appears that the date of joining of applicant as well as Shri K.K.Sharma i.e. respondent No.3 are shown as 22.9.1987 and 17.9.1987 respectively. If these dates are taken to be correct, there is no doubt that respondent No.3 is senior to the applicant as Cable Jointer Grade-III. However, the respondents have not given the dates of promotion of the applicant and respondent No.3 to Grade-II. The applicant maintains that he was promoted to Grade-II on 10.9.1992, whereas respondent No.3 was promoted on 22.9.1992. Besides as per the applicant these are findings of PNM dated 24/25-4-2001 ^{is} ~~is~~ ^{is} ~~is~~ so, obviously the applicant stands senior to respondent No.3 in Grade-II. Therefore, if his claim is correct about his promotion in Grade-II, in our opinion, he is entitled for promotion in Grade-I.

6. In the facts of circumstances and aforesaid discussions, the OA is partly allowed. The order dated 13.5.2002 is quashed. We are of the view that the interest of Justice shall be better served, if the matter is remanded to Competent Authority who should

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decide the issue with reference to the various records available with him. We also direct the Competent Authority to give an opportunity of hearing to the applicant before any final decision is taken. The applicant is allowed four weeks time to file a detailed representation before Competent Authority alongwith a copy of this order. The Competent Authority shall take a final decision and pass a reasoned and speaking order only after hearing the applicant within two months. No order as to costs.


Member-J


Member-A

RKM/