

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 937 of 2002

Dated : This the 16th day of September, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, V.C.
HON'BLE MR. D.R. TIWARI, MEMBER - (A)

Jaggan Nath Singh S/o Sri Lal Singh aged about 52 years, Resident of Village Jasauli, Post Office Gotni, Distt. Pratapgarh, at present posted as Mate under the Section Engineer (P. Way), Northern Railway, Khaga.

-----Applicant.

Counsel for the Applicant : Shri S.Dwivedi

| :| Versus | :|

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Sr. Divisional Engineer (III), Northern Railways, Allahabad.
3. The Assistant Divisional Engineer (Line), Northern Railway, Allahabad.
4. The Assistant Engineer (Line), Northern Railway, Allahabad.

-----Respondents.

Counsel for the Respondents: Shri A.K.Pandey

O R D E R (O R A L)

By Hon. Mr. Justice R.R.K. Trivedi, V.C.

As the pleadings have been exchanged ^{between} ~~within~~
the parties, in our opinion this O.A. may be decided
finally at this state.

2. By this O.A. under section 19 of Administrative Tribunal Act, 1985, applicant has prayed for a direction to respondents not to revert the applicant from the post of Mate to the post of GangMan. It is also prayed that the respondents may be directed to allow the applicant to work on the post of Mate with all benefits attached to the post.

3. The facts of the case are that the applicant joined as regular Gang Man with effect from 01.03.1979 in the department of Railways and was posted under the Permanent Way Inspector, Northern Railway, Kanpur. In the month of December, 1993 on the request of the applicant, he was transferred from Kanpur to Allahabad and was posted under the Senior Section Engineer (P.Way), Northern Railway, Allahabad. The applicant was promoted as Key Man by order dated 24.10.1996 and thereafter as Mate. As he apprehended that he is going to be reverted on the basis of the pressure created by Uttar Railway Mazdoor Union, he filed this O.A. for the aforesaid relief.

4. Resisting the claim of the applicant respondents have filed Counter Affidavit. In paragraph III of the Counter Affidavit it has been stated that the applicant has filed this O.A. without any cause of action. The applicant is neither being reverted nor any action has been taken against him by the respondents in this regard. Shri A.K.Pandey, learned counsel for the respondents submitted that as respondents have not taken any action, this O.A. is liable to be dismissed.

5. Shri S.Dwivedi, learned counsel for the applicant, however, submitted that in para 4(18) and 4(19) of the O.A. applicant ~~has~~ taken ^{to the plea that} ~~to revert the applicant~~ under illegal and

~~The is being illegally revested~~
undue pressure of the Union. Aforesaid paragraphs nos.

4(18) and 4(19) have been replied in paragraph 16 of Counter Reply wherein it has been stated that the contents are not disputed. In view of the aforesaid, the counsel for the applicant has submitted the apprehension of the applicant was justified and applicant is entitled for relief.

6. We have carefully considered the submissions of the counsel for parties. Normally employers are ~~not~~ restrained ~~from~~ passing the order of reversion, removal or termination from service in accordance with law and ~~they~~ cannot be restrained from exercising this authority. However, in case, without hearing the applicant a decision has already been taken to revert him under pressure of the union. he is entitled for direction as claimed in the present O.A. that respondents ~~may~~ directed not to revert applicant under pressure of the union. The Division Bench of Jodhpur Bench of this Tribunal in case of Prem Dass Adiwal Vs. U.O.I. & Others 1994 (24) A.T.C. 368 has taken the view that the applicant was entitled to seek injunction from the Tribunal as decision to revert him has already been taken, a formal order was yet to be issued. The relevant paragraph of the judgment is being reproduced below :

"..Taking into consideration the case we are of the view that the principles of promissory estoppel applies in the instant case. The applicant has not concealed any material fact or any other fact to appear in the competitive examination conducted by the respondents. He succeeded and was appointed, vide Annexure A-7, dated 10-3-1988 and he was allowed to continue in service even after the detection of the so-called mistake up to 26-4-1992 without intervention and even up to this order no reversion order has been passed. Thus, the applicant once allowed to hold the post of LDC for a period of five years cannot be allowed to be reverted now. The OA is allowed and the respondents are restrained from reverting the applicant from the post on the ground that he was not eligible to appear in the examination on account of non passing the matriculation examination. If there exists any other ground or any disciplinary proceedings then the respondents will be at liberty to take action according to law."



7. In our opinion, the aforesaid judgment is squarely applicable in the present case. As the admitted position is that applicant was promoted firstly as Key Man and then on the post of Mate and continuing on the promoted post for the last more than 2 years, ~~the~~ ^{the B.M.} ~~could not revert the~~ ^{respondent} applicant on the basis of any pressure created by the union. It is admitted that the decision to revert the applicant has ^{thus} been taken, ^{thus} he is entitled for the relief.

8. The O.A. is accordingly allowed. The respondents are restrained from reverting the applicant from the post of Mate to the post of Gang Man under the pressure created by the union and decision taken on the basis of the pressure ^{shall} ~~not be given effect~~. However, it shall be open to respondents if there exist any other ground or any disciplinary proceedings to take action in accordance with law.

9. There will be no order as to costs.

Dinesh
Member (A)

Q
Vice - Chairman

Brijesh/-