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~~Reversing
Petition~~ (yes)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 189 OF 1987
~~Exx No.~~

DATE OF DECISION 9-7-1991.

Baburam Yadav, **Petitioner**

Mr. M.D. Rana **Advocate for the Petitioner(s)**

Versus

Union of India & Ors. **Respondents**

Mr. M.R. Raval for Mr. P.M. Raval, **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *JK*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No*

Baburam Yadav,
Cable Splicer,
S.D.O.T. Porbander,
Sub-Divisional Office
Telegraph Porbander.

..... Applicant.

(Advocate: Mr. M.D. Rana)

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Versus.

1. Union of India,
Notice to the
General Manager,
Telephones, Ahmedabad.

2. Division Engineer,
Telegraphs, Junagadh Dn.,
Junagadh 362 001.

.... Respondents.

(Advocate: Mr. M.R. Raval for
Mr. P.M. Raval)

JUDGMENT

O.A. No. 189 OF 1987

Date: 9-7-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The applicant was, on promotion, posted as Cable Splicer at Porbandar under Sub Divisional Officer Telephones, Porbandar by order dated 16.10.1986 of the D.E.T. Junagadh which was communicated to the applicant by the office of the Sub Divisional Officer Telephones Junagadh by letter dated 27.10.1986. After working for some time in the promoted post, the applicant came to be reverted to his substantive post of Lineman. The reversion came to be ordered because of the posting of one Baburam Yadav as Cable Splicer on promotion. The applicant has challenged the order of his reversion in this original application filed under section 19 of the Administrative Tribunals Act 1985. It was registered on 13.4.1987.

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2. It has been alleged in the above application that while working as Lineman, the applicant was sent for training of Cable Splicer in 1985. The applicant successfully underwent the training. In the result of training of 15 candidates announced by memorandum dated 3.7.1985 of the Principal, C.T.T.C. Ahmedabad the applicant was placed third in rank in the order of merit. (result produced at Annexure-B). We should observe here that J.R. Yadav whose posting on promotion at Porbandar resulted in the reversion of the applicant by the impugned order dated 4.4.1987 was placed first in the order of merit. It is alleged that the order of reversion suffers from legal vices in as much as it does not indicate the reasons for the reversion of the applicant. This allegation is not true on the face of record when training result sheet dated 3.7.1985 in which J.R. Yadav figured as No.1 in order of merit and the applicant at Sr.No.3 and the order of reversion dated 4.4.87 are seen together. It is clear that when a person who had figured higher in merit list was promoted, resulted the reversion of the applicant. It is further alleged that as the order does not give the applicant the semblance of hearing, it suffers from legal malafide. This allegation is also untenable because when a senior's promotion results in reversion of the junior which the record itself evidences, such hearing is not required to be given. Reversion in such circumstances does not amount to punishment. The respondents have averred in their reply that the applicant was reverted because of the posting of a senior. It is however, alleged that the applicant was senior in service to J.R. Yadav. However, it is not shown to us that the service seniority in the same rank could not be

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disturbed for purposes of promotion to higher rank on the basis of the above referred training result. The promotion of U.R. Yadav and his posting to displace the applicant has not been challenged by the applicant. Hence, this allegation cannot be taken into consideration for adjudication in applicant's favour behind the back of J.R. Yadav. The learned counsel for the applicant relied on an unreported judgment dated 18.2.1988 of this Bench in T.A.10/87. In that case the applicant was served with showcause notice and the matter was under process during which period the applicant was reverted. The facts of that case are distinguishable from the facts of the present case. That judgment does not help the applicant.

3. In view of the above, the application is liable to be dismissed. We hereby do so without any order as to costs.

R.C.Bhatt

(R.C.Bhatt)
Judicial Member

H. M. Singh
9/7/91

(M.M. Singh)
Admn. Member