

No
Reversion

B

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 621 of 1988
~~T.A. No.~~

DATE OF DECISION 29th September 1992.

Shri L.C. Joshi Petitioner

Shri S.V. Raju Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N. V. Krishnan

Vice Chairman.

The Hon'ble Mr. R. C. Bhatt

Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

Laxmishanker C. Joshi

Raiya Road
Behind Hanuman Mudhi,
Sahayog Pan House,
Gayatrikrupa,
Rajkot

Applicant.

Advocate

Shri S.V. Raju

Versus

1. Union of India
Notice to be served on
General Manager,
Western Railway,
Chruchgate, Bombay
2. General Manager
Western Railway
Chruchgate, Bombay
3. Divisional Railway Manager
Western Railway
Rajkot.
4. Banesingh N.
5. Ibrahim K.
6. Vijaysingh R.
7. Madhu L.
8. Vaghji R.
9. Daulatsingh V.

Nos. 4 to 9 having their
address as C/o Loco Shed
Western Railway, Rajkot.

Respondents.

Advocate

Shri B. R. Kyada

J U D G E M E N T

In

O.A. 621 of 1988

Date 29-9-1992.

Per : Hon'ble Shri N. V. Krishnan Vice Chairman

Shri S.V. Raju for applicant.

Shri B.R. Kyada for respondents.

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(9)

The applicant was given ad hoc promotion. The applicant was a khalasi under the 3rd respondent and on the basis of a local trade test, he was promoted on ad hoc basis, to the higher post of Tin and Copper Smith (T.C.Smith) by order dated 5-9-1985 (Annexure A). By this order, nine other persons were also promoted similarly to other trades. Subsequently, on 26-5-1988 the impugned order (Annexure A-2) was passed reverting the applicant to his original post of khalasi and in his place, Harji Mavji, T.C. Smith, who was transferred from Mehsana, was posted. The applicant has no grievance against the appointment of the said Harji Mavji but he is aggrieved by the fact that, while he has been reverted, his juniors who are respondents Nos. 4 to 9 are still being continued in the higher post on ad hoc basis.

2. In this regard, the applicant made representation at Annexure A-3 series, to which a reply^{u dated 20.6.88} was sent by the third respondent to the Loco Foreman, Rajkot, under whom the applicant is working^{u (An A-4)}, that the applicant was purely working on a local ad hoc basis as T & C Smith and hence he cannot object to his reversion. It is under these circumstances that the applicant has approached us in this Application to quash the impugned order of reversion dated 28-5-1988 (Annexure A-2) and to declare that he is confirmed in the post of I & C Smith or any other post in an equivalent pay scale and also to declare that the action of the third respondent in promoting his juniors i.e. respondents Nos. 4 to 9, is illegal and he should also have been promoted along with them.

3. The respondents Nos. 1 to 3 (Railways for short) have filed a Reply, while respondents Nos. 4 to 9, though noticed, did not file any reply.

4. The contention of the Railways is that to meet exigencies of services, ad hoc promotions are made on the basis of local trade test conducted in each loco shed. The procedure for filling up these posts on a regular basis is to hold regular trade tests for the Division as a whole. The applicant was promoted purely on an ad hoc basis, on the basis of a local trade test. He was reverted to accommodate a regularly promoted T & C Smith, Shri Harji Mavji, coming on transfer from Mehsana. The applicant has no grievance against reversion in so far as it concerns Harji Mavji. His contention that the respondents nos. 4 to 9 are his juniors is not correct. Therefore, he cannot contend that he should be continued alongwith those respondents.

5. It is stated that the trade test for the division was conducted vide Notice dated 24-9-1989 (Annexure R-7) for various trades, including T & C Smith. The notice gives in the enclosures thereto the list of eligible employees, including S.C./S.T. who are required to appear for the trade test. It directs the Loco Foreman to obtain letters of unwillingness from the concerned employees, if they are unwilling to appear in the test. The name of the applicant does not find place in any of the categories, either as an entitled person or as a ~~stand~~ stand by.

6. It is contended that the applicant cannot claim that he is senior to Daulat Singh, the 9th respondent because he is working as SRA after passing a local trade test, while the applicant has not passed such local trade test. In fact he has expressed unwillingness in this regard vide Annexure R-5. It is contended that the application has no force and therefore, it should be rejected.

7. We have perused the records of the case and heard the arguments of the Counsel for both the sides.

8. We notice that in so far as the reversion arising out of induction of Harji Mavji by transfer is concerned, the applicant has no grievance against that official. His grievance is that his juniors are continuing while he himself has been reverted.

9. The applicant has not produced any seniority list or any other particulars to show that he is senior to the respondents nos. 4 to 9. The learned Counsel for applicant relies on the document Annexure A for this purpose. Out of the 10 persons therein, only the applicant at Sr.No.1 and Banesingh at Sr.No.2 (Respondent no.4) are parties to this Application. There is nothing to show that Annexure A is a Seniority List. Further, while the applicant has passed the trade test for T & Smith, Banesingh, respondent no.4, has ~~xx~~ passed the trade test of Loco Foreman. Thus, the applicant cannot compare himself with Banesingh and claim that he is senior to Banesingh.

10. The learned Counsel however, points out that from the following particulars given by the respondents in para 5 of their Reply, it is clear that he is senior to Daulatsingh, respondent no.9 :

" With reference to para 6(5) of the Application the averments made in the said para are not correct and denied hereby. It is not true that the respondent no.9 is junior to the applicant but on the contrary the respondent no.9 is senior to the applicant:

Sr. No.	Name.	Designation.	Station	Date of birth	Date of appt.	Date of entry in grades
1	2	3	4	5	6	
1.	Daulat Singh	Offg. Welder	Rajkot	1-8-38	19-8-59	1-8-88
2.	Laxmi Shanker	Kh. Helper	Rajkot.	5-1-36	5-7-58	1-8-88

If the particulars given in column ^u 5 to ^u 7 only are taken into consideration, the applicant would be senior to Daulat Singh in all respects. This, however, ignores the fact that Daulatsingh has been designated as Officiating Welder, which is a higher post, while the Applicant is designated as Khalasi helper. It may be seen from Annexure A, that the applicant was given ad hoc promotion from Khalasi helper to the post of T & C Smith. Annexure R-7 Notice is for promotion to the post of ^u T & C Smith/^u ~~the~~ ^{holder from} various posts of which helper is one. Thus, Daulatsingh is holding a higher post while the applicant is only Khalasi helper and hence he is junior to Daulat Singh.

11. There is one another consideration that Ad hoc promotions are made only on Locoshed basis. A local trade test is conducted in locoshed where there are vacancies for adhoc promotion. After his ^upromotion reversion from the Rajkot locoshed, the applicant cannot claim, as of right, that he should be given promotion in ^{any} ~~any~~ other locoshed where juniors ^uoffice might be holding, the said promotion post on an ad hoc basis. The respondents are not bound to transfer a person from one locoshed to another locoshed to merely fill up a higher post on ad hoc basis. They can treat the adhoc promotion ~~of~~ ^{local} of a junior as a purely ad hoc ~~based~~ arrangement.

12. For these reasons, we are of the view that this ^u ~~applicant~~ ^{has} has no merit and accordingly it is dismissed.

R.C. Bhatt

(R.C. Bhatt)

Member (J)

29-9-1992

N.V. Krishnan

(N.V. Krishnan)

Vice Chairman

29-9-1992.

*AS.