

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

:Date of Decision: 20.8.99

QA No.264/91

Mr.Ashok C. Bose

: Petitioner (s)

Mr P.H. Pathak

: Advocate for the petitioner(s)

Versus

Union of India & Ors.

: Respondent(s)

Mr.N.S.Shevde

: Advocate for the respondent(s)

CORAM

Hon'ble Mr. V. Radhakrishnan

: Member (A)

Hon'ble Mr . P.C. Kannan

: Member(J)

JUDGMENT

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

Ans

Shri Ashok C.Bose,
ATTO Surendranagar,
C/o.CTCI Office (W.R.)
Rajkot.

: Applicant

Advocate: Mr.P.H.Pathak

Versus

1. Union of India,
Notice to be served through:
Divisional Railway Manager,
Western Railway,
Kothi Compound,
Rajkot.

2. Sr.D.S.T.E.(E)
Western Railway,
Kothi Compound,
Rajkot.

: Respondents.

Advocate: Mr.N.S.Shevde

JUDGMENT

OA/264/91

Date:20.8.99

Per; Hon'ble Mr.V.Radhakrishnan

: Member(A)

The applicant is a senior Khalasi who was working as Assistant Telephone Operator (ATTO) since 1975 in broken spells and from 27th December, 88 continuously. The post of ATTO is a promotional post of Senior Khalasi. The applicant when he was working as adhoc ATTO made a representation to consider him for regular promotion. In April, 91 the respondents invited application for selection to ATTO. The applicant also applied for the same but his application was rejected on the ground that he was not eligible. The test held in April 1991 for the selection to the post of

ATTO, but none was found suitable. The applicant was however, reverted to accommodate one Miss Jayshree Assandas on compassionate ground. The juniors of the applicant were, however, continued in the higher post of ATTO. Being aggrieved by the reversion vide order dated 26.6.91 (Annexure A/3) the applicant approached this Tribunal asking for the following reliefs:-

- (A) The Hon'ble Tribunal be pleased to declare the impugned order dated 26.6.91 reverting the applicant from the post of ATTO to the post of Khalasi as illegal, invalid and inoperative in law and be pleased to quash and set aside the same.
- (B) Be pleased to direct the respondents to continue the applicant At ATTO without any break in the service and grant all Consequential benefits.
- (C) Be pleased to direct the respondents to consider the applicant As regularly appointed ATTO as he has completed about 3 years Of service on the post and he cannot be reverted without Following the principle of natural justice.
- (D) Any other relief to which the Hon'ble Tribunal deems fit and Proper in interest of justice."

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The applicant claims that having continued about three years in the higher post he cannot be reverted to accommodate a fresh employee. It is also his contention that once person is continued in higher post for more than six months the case should be reviewed by the General Manager for regularisation. Mr. Pathak has produced a copy of order issued by the Respondent dated 20.5.92 promoting two persons namely; Shri Jani and Shri Dilip as ATTO on ad hoc basis. He states that these persons are juniors to the applicant as can be seen from the seniority list and the applicant has been ignored.

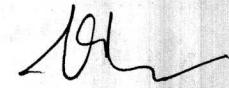
The respondents have filed a reply. They have stated that the applicant was promoted officiate as ATTO from 26.12.88. They have stated that according to rules, persons should have passed 10th standard for being promoted to the post of ATTO. Accordingly, the applicant had not passed 10th standard, was not eligible to call for the test. The applicant had only passed 9th standard.

We have heard both the learned advocates and gone through the documents on record. It is seen that even though the applicant was working in the higher post purely on ad hoc basis he was reverted in order to accommodate one fresh appointee on compassionate ground which is a regular appointment. Accordingly, we cannot say that reversion of the applicant violates any rule. A person working on adhoc basis can liable to be reverted when regular person is available. In so far as the promotion of the juniors to the applicant is concerned, there is no dispute about the fact that two persons namely Shri Jani and Shri Dilip who were promoted vide order dated 20.5.92 were juniors to the applicant and the applicant also fulfilled the eligibility conditions. There is no explanation why the applicant senior to the eligible persons, was not considered for adhoc appointment. In the circumstances we have to assume that the applicant was ignored for adhoc promotion without any valid reason especially taking into account his working earlier about three years in the higher post. Accordingly, we order that the applicant who was senior to the persons promoted vide order dated 20.5.92 should also be given adhoc promotion on the same date until his juniors are continued or regularised whichever is earlier.

With the above order, OA stands disposed of. No costs.

Dracon

(P.C.Kannan)
Member(J)


(V.Radhakrishnan)
Member(A)