

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

OA/530/93

Date of Decision : 11.12.2000

Shri Arunkumar K.Pathak : 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

The Hon'ble Mr.P.C.Kannan : Member (J)

The Hon'ble Mr.G.C.Srivastava : Member (A)

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?
- ND

RM

: 2 :

Arunkumar K.Pathak,
429 D. Railway Colony,
Bhavnagarpara, Bhavnagar-364 003.

: Applicant

Advocate: Mr.P.H.Pathak

Versus

1. Union of India
Notice to be served through
General Manager,
Western Railway,
Churchgate,
Bombay.

2. Chief Works Manager,
Western Railway,
Railway Workshop,
Rajkot.

3. Works Manager,
Western Railway,
Railway Workshop,
Bhavnagarpara, Bhavnagar.

: Respondents

Advocate: Mr.N.S.Shevde

JUDGMENT
OA/530/93

Date: 11 -12-2000

Per: Hon'ble Mr.P.C.Kannan

: Member (J)

We have heard Mr.P.H.Pathak, counsel for the applicant
and Mr.N.S.Shevde, counsel for the respondents.

DM

2. The applicant who was promoted as Charge-man-B under the respondents has approached this Tribunal in this OA against the order of the respondents dated 31.3.93 cancelling the selection and appointment of the applicant as Charge-man B and his subsequent reversion order reverting the applicant as Mistry under order dated 31.3.93 without giving him an opportunity of being heard.

3. The respondents in their reply have stated that when earlier selection was cancelled, the applicant who appeared in the next process of selection is also required to be cancelled in consequent to the earlier selection being cancelled. Mr. P.H.Pathak, counsel for the applicant submitted that S/Shri Raja Bhatta and Kanjibhai J.Solanki who were selected under the earlier panel for appointment to the post of Charge-man Grade 'B' also filed OA/172/93 and 1973/93 before this Tribunal and this Tribunal vide its judgment dated 13.4.93 quashed the cancellation of selection and the reversion on the ground that principle of natural justice is violated inasmuch as the applicants were not given any opportunity to be heard before reverting them and given promotion to others. In the light of the above judgment, this OA is also required to be allowed as the facts of this OA is identical with the earlier OA/172/93 as in this case also the applicant was not given any opportunity to be heard before cancelling the selection and his subsequent appointment as Charge-man Grade-B.

4. We have heard the rival contentions and examined the pleadings. The facts in OA/172/93 are identical with the facts of the present OA. Vide para-8 in OA/172/93 and

: 4 :

173/93 this Tribunal made the following observations:-

" Having heard the learned advocates and having perused the documents on record we hold that the respondents' action in passing impugned orders is against the principles of natural justice and is arbitrary and hence the impugned orders of reversion Annexure A-1 and A-2 both dated 31st March, 1993 shall have to be quashed and set aside. However, this will not prevent the respondents from giving an opportunity to the applicant to be heard and to pass fresh order according to law. Hence, we pass the following order:-

ORDER

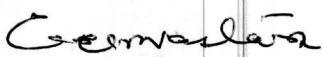
OA/172/1993

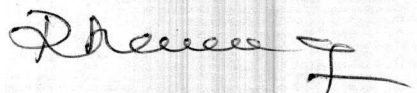
The application is allowed. The impugned order Annexure A-1 and A-2 dated 31st March, 1993 reverting the applicant is quashed. This order allowing the application and quashing the order of the respondents is only qua the applicant. The respondents are directed to continue the applicant as Chargeman Grade 'B'. However, this order will not come in the way of the respondents making fresh order if they so desire after issuing notice to the applicant of being heard and then after passing a speaking order according to the rules. In case the respondents ultimately pass any speaking order adverse to the applicant, then the same may not be executed for 10 days after receiving the same by the applicant. The application is allowed to the above extent only. There will be no order as to costs. The application is disposed of."

The facts of this OA show that the selection Board which was convened to draw a panel for appointment to the post of Chargeman-B placed the applicant in the provisional

panel (Annexure A-1) to the OA and subsequently, the applicant was promoted vide order dated 21.12.92 (Annexure A-2) as Chargeman Grade B. Vide order dated 31.3.93, the respondents cancelled the selection of the applicant for promotion to the post of Chargeman-B and vide order dated 31.3.93 (Annexure R-4) issued reversion order of the applicant to the post of Mistry. Admittedly, the applicant was not given any opportunity to be heard before cancelling the selection and reverting him to the post of Mistry. For the reasons stated in the OA/172/93 and in the light of the facts stated above, we quash the impugned orders at Annexure A-3 dated 31.3.93 cancelling the selection and reversion order dated 31.3.93 (Annexure R-4) reverting the applicant as Mistry. The respondents are directed to continue the applicant as Chargeman Grade B in terms of the promotion orders dated 21.12.92 (Annexure A-2). However, this order will not come in the way of the respondents making a fresh order if they so desire after issuing notice to the applicant of being heard and then after following the principles of natural justice and pass a speaking order in accordance with the rules. If the applicant is still aggrieved with the order of the respondents, it is open to him to challenge the same before appropriate forum.

5. The OA is allowed with the above orders. No costs.


(G.C. Srivastava)
Member (A)


(P.C. Kannan)
Member (J)