

III

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO.357 OF 1987.

Date of decision : December 18, 1987.

R.Krishna son of late R.Asiryya,
Junior Clerk Locoshed, S.E.Railway,
Khurda Road, now under transfer to
Palasa as Khalasi Helper, S.E.Railway
(under the Administrative Control of
Khurda Road Division)A.P. ... Applicant.

Versus

1. The Union of India, represented by
the General Manager, S.E.Railway,
Garden Reach, Calcutta -43 (W.B.)
2. The Senior Divisional Personnel Officer,
S.E.Railway, Khurda Road, P.O./P.S.Jatni,
District-Puri. .. Respondents.

For the applicant ... M/s.K.C.J.Ray,
F.Khan,
P.C.Kar, Advocates.

For the respondents ... Mr.Ashok Mohanty,
Standing Counsel (Railways)

C O R A M :

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR.K.P.ACHARYA, MEMBER (JUDICIAL)

-
1. Whether reporters of local papers may be allowed to
see the judgment ? Yes.
 2. To be referred to the Reporters or not ? No .
 3. Whether Their Lordships wish to see the fair copy
of the judgment ? Yes.
-

J U D G M E N T

K.P.ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, order dated 25.11.1987 forming subject matter of Annexure-6, is under challenge and is sought to be quashed.

2. Before we deal with the contentions raised on behalf of either parties, it is necessary to succinctly state the previous history of this case for better appreciation of the contentions raised by counsel for both sides. The applicant was initially appointed as a Shed Khalasi on 7.10.1972 under the South Eastern Railway stationed at Khurda Road. In course of time the applicant was promoted to the post of Junior Clerk on officiating basis in the year 1980. The applicant worked as such for some time and in the year 1983 he was transferred as officiating Clerk to Palasa vide Divisional Personnel Officer's order dated 18.7.1983 contained in Annexure-3. For disobedience of orders passed by the competent authority the applicant was put under two different proceedings and those proceedings went on against the applicant. After the proceedings were initiated the applicant was ordered to be reverted to the substantive post of Khalasi vide order passed by the Divisional Personnel Officer dated 18.4.1984. In one such proceedings the applicant was ordered to be removed from service and so far as the other proceeding is concerned, in view of the order of removal passed by the competent authority the same was ordered to be dropped. Being aggrieved by the order of removal from service and also being aggrieved by the order of reversion

the applicant came up before this Bench with a prayer to quash the order of removal from service and also to quash the order of reversion passed against him. This case formed subject matter of Original Application No. 74 of 1987 and the order of reversion was contained in Annexure-4 of that case. O.A. 74 of 1987 was heard on merit by this Bench and vide judgment dated 30th October, 1987 we set aside the order of removal of the applicant from service and we directed that an enquiry afresh should be conducted against the applicant as he had been set ex parte and consequently ex parte order of removal was passed against him. Simultaneously, we directed that the proceeding which had been dropped should be revived and both the proceedings should be carried on and disposed of according to law. While arguments were advanced at the Bar we were told that the applicant had been transferred to Palasa and the applicant is avoiding to carry out that order of transfer. We directed in the judgment that not only the proceedings would be started afresh but the applicant must carry out the order of transfer which had been passed by the competent authority posting him at Palasa. In the said judgment we had also given definite date on which the applicant should report before the competent authority and we also directed that the applicant should be provided with necessary documents so as to enable him to face the enquiry. Incidentally, it may be mentioned that the prayer for quashing of the order of reversion escaped the notice of all concerned. In view of the directions issued by us in the said judgment a peculiar situation has now arisen. The present applicant claims to join at Palasa as Junior Clerk (Officiating) whereas rightly the competent authority wants to

post him at Palasa in his substantive post as Khalasi Helper because of the reversion order. In view of the aforesaid facts and circumstances, the dispute between both the parties in this application has been centering around the issue relating to fact of joining at Palasa - whether as Junior Clerk or as Khalasi Helper. In view of these circumstances, we feel it expedient in the ends of justice to review the ~~entire~~^{whole} case forming subject matter of Original Application No.74 of 1987 to the limited extent of considering the legality or otherwise of the reversion order passed on 18.4.1984 contained in Annexure-4 of Original Application No.74 of 1987.

3. While exercising our review jurisdiction suo motu to the limited extent of considering the justifiability or otherwise of the reversion order passed on 18.4.1984, we would direct that the proceeding may continue and we would further direct without prejudice to the legal rights and claim of the applicant to continue in the promotional post because of having discharged his duties in the said promotional post for more than 18 months, the applicant would join at Palasa as Khalasi Helper and he should report to the Head TXR (Carriage Department), Palasa on or before the forenoon of 1st January, 1988. We hope, the competent authority would issue necessary pass etc. (as permissible under the Rules) on an application being filed before the Divisional Personnel Officer, Khurda Road, preferably by 24th instant and it is hoped that the Divisional Personnel Officer would immediately issue the same.

4. Office is directed to register a review case which is started by us suo motu to consider the legality of the reversion order which was subject matter of challenge in

Original Application No.74 of 1987.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs..

[Signature]
.....18.12.87.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,



[Signature]
.....18.12.87.....
Vice-Chairman

Central Administrative Tribunal
Cuttack Bench : Cuttack.
December 18, 1987/S.Sarangi.