

(11)

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, : CUTTACK.

ORIGINAL APPLICATION NO: 65 OF 1990.

Date of decision: 6th November, 1990.

S.K.Biswas

: Applicant

Versus

Union of India and others

: Respondents.

For the applicant

: Mr. G.A.R.Dora, Advocate

For the Respondents

: Mr. D.N.Mishra, Standing
Counsel (Railway).

.....

C O R A M:

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

A N D

THE HON'BLE MR. N.SENGUPTA, 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's wish to see the fair copy of the judgment ? Yes.

.....

J U D G M E N T


N.SENGUPTA, MEMBER (J),

The applicant has asked for quashing the

order of his reversion vide Annexure-A/3 dated 1.3.1990.

2. The case of the applicant is that he (the applicant) after obtaining a Diploma Course in Mechanical Engineering was appointed as a Chargeman Grade-B after having ^{- been -} selected by the Railway Service Commission, that was in April, 1983. He underwent Apprenticeship for two years and after passing the written and a viva voce test, was regularised as chargeman Grade-B in the Mancheswar Carriage Repair Workshop, with effect from 29.4.1985. On 29.4.1986 he was promoted on ad-hoc basis to the rank of chargeman Grade-A. He also passed the suitability test for chargeman Grade-A and thereafter his appointment as chargeman Grade-A was regularised with effect from 4.1.1988, Vide Annexure-A/2. He was promoted on ad hoc basis to the next higher post of Assistant Shop Superintendent (ASS) with effect from 1.11.1988 and he appeared at the test held in January, 1990 but the result of that test is unknown to him. As indicated above, an order of his reversion from Assistant Shop Superintendent to the Post of Chargeman Grade-A was passed on 1.3.1990. But Respondent No.3 was promoted to that Grade even though the said Respondent had not qualified and he was regularised as Chargeman Grade-B on the date the services of the

Me. Gupta
6.11.90

(137) 

applicant ~~was~~ regularised as ~~ch~~argeman Grade-A.

3. The Railway Administration have filed a Counter and has annexed some document to the said counter. The substance of the case of the Railway Administration is that on the establishment of the Carriage Repair Workshop at Mancheswar personnel from different divisions of the South Eastern Railway were brought to man the posts in the said workshop. Respondent No.3 had entered into Railway Service much prior to the date the applicant joined the Railway Service. Considering this, ~~the~~ Respondent No.3 was given promotion as Assistant Shop Superintendent. Their case further is that the applicant was called to appear at the written test for the post of Assistant Shop Superintendent and as he failed to secure the minimum pass mark, he was not called to the viva voce test.

4. Respondent No.3 has not entered appearance.

5. We have heard Mr. G.A.R.Dora learned Counsel for the applicant and Mr. D.N.Mishra learned Counsel (Railway Administration) for the Respondents. On a perusal of the application and the counter, the position that emerges is that Respondent No.3 had been appointed as chargeman Grade-B some years prior to the applicant's appointment to that Grade but Respondent No.3 had not

Man Singh
6/11

appeared at the test meant for being promoted to the rank of chargeman Grade-A. From the Annexure, it would be found that on the day the applicant was regularised in Grade-A, the Respondent No.3 was regularised in chargeman Grade-B. We do not like to enter into the question of who should be deemed to be senior as between the applicant and the Respondent No.3 in chargeman Grade-B but one thing is clear that the applicant had been regularised as chargeman Grade-A, having passed the test and Respondent No.3 has not passed the test. It is nobody's case that Respondent No.3 appeared at the test for chargeman Grade-A, possibly he could not have appeared and come out successful. Therefore, the present case is one of the reversion of a person who qualified to hold a post in the feeder grade whereas the person retained in the promotional post had not qualified himself to hold a post in the feeder grade. In such circumstances, there cannot be any doubt about the applicant having been discriminated against. We would accordingly quash the Annexure A/3 and the applicant should be deemed to be officiating as Assistant Shop Superintendent till a person senior to him and having the requisite eligibility holds the post. This case is accordingly disposed of. No costs.

K. M. M. 6.11.90

 VICE-CHAIRMAN



M. S. S. 6.11.90

 MEMBER (JUDICIAL)