

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 654 of 1992

Date of Decision: 16.11.1993

Parsuram Panda

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? No.

16/11/93
VICE-CHAIRMAN

MEMBER (ADMINISTRATIVE)

Nov 93

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Respondents

For the applicant

M/s.D.R.Pattnayak
B.K.Misra
S.P.Patnayak
K.C.Pradhan
R.N.Nayak,
Advocates

For the respondents

Mr.R.C.Rath
Standing Counsel
(Rly.Administration)

...

C O R A M:

THE HONOURABLE MR.K.P. ACHARYA, VICE - CHAIRMAN

AND

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN)

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JUDGMENT

7.

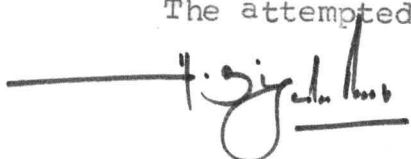
MR.H.RAJENDRA PRASAD, MEMBER (ADMN) : In this application Shri Parshuram

Panda, Junior Clerk, South Eastern Railway, has questioned the order of reversion served on him by the Respondents.

2. Shri Parashuram Panda entered the Railway service on 24th March, 1969, on appointment as peon, and continued as Sach till 11th April, 1983, on which date he was promoted as Record Sorter. On 8th February, 1988 he was promoted as Junior Clerk, and, according to him, was confirmed in the post subsequently. Some time later he sought, or agreed to, a mutual transfer with one Smt. Padmaja, and came to Khurda Road from Visakhapatnam on the approval of their mutual transfer.

The applicant was called to face a suitability test on 24th January, 1992, selected and empanelled for promotion, and was actually promoted as Senior Clerk on 9th March, 1992. While he was continuing in the promotional post, orders were served on him reverting him from the post with effect from 1st October, 1992. The applicant represented to his superior officers on 1st December, 1992, but the same had not been disposed of until he filed this present application and obtained a stay of the operation of his reversion on 24th December, 1992. He continues as Senior Clerk on the strength of the stay order.

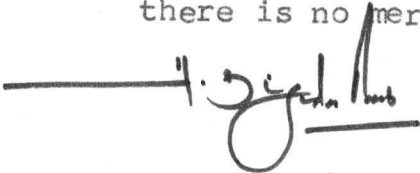
3. The applicant contends that the order of reversion was passed behind his back and is therefore illegal. There was no disciplinary case against him, nor any departmental or other proceedings. No notice was served on him preceding the impugned reversion, nor was he given a personal hearing. The attempted reversion is also, therefore, violative of



principles of natural justice.

4. The respondents admit the applicant's version upto and including his promotion to the post of Senior Clerk, except that he was never confirmed as Junior Clerk, as claimed by him. Explaining the circumstances leading to the issue of reversion orders, it is stated that, on his seeking and accepting a mutual transfer, his seniority in the new unit should properly have been fixed from 8th February, 1988. It was because Smt. Padmaja, with whom he changed places, was recruited on that date. This is as per the regulations governing mutual transfers. It was, however, not done and his seniority was erroneously left unaltered. Resultantly, he was mistakenly called to take the suitability test for promotion to senior clerk, whereas he was not really senior enough to be so called or considered. When this error was discovered, action was immediately initiated to rectify the mistake. And the only way in which it could be done was by ordering his reversion. The was an only avenue of action open to the authorities and the consequence, howsoever distressing to the applicant, could not be avoided. It is basically a question of rectifying an inadvertent error in determining the seniority of the applicant. They finally point out that the applicant is not merely ^{not} senior enough, but there are actually nine regularly selected officials, who are senior to him and are awaiting promotion.

5. In the light of the aforementioned facts, the Respondents urge that the application be dismissed since there is no merit at all in it.



6. In his rejoinder to the Respondents' counter, the applicant asserts that he is in fact still treated by the Department as a senior clerk inasmuch as they have issued him two railway passes even after his reversion was stayed by the Tribunal. For the rest, the rejoinder merely repeats his earlier grievance that no notice was served on him, and that no opportunity was provided to him for a personal hearing before the order of reversion was issued.

7. We have given a very careful consideration to the arguments advanced on behalf of the contestants.

8. It is admitted by the applicant that he sought a mutual transfer with an official from Visakhapatnam. As per rules, a change in seniority, reckoned in terms of the date of entry, follows automatically in all such cases. It is revealed by the respondents that this change was not effected or reflected in their records. Obviously owing to this omission the applicant was erroneously called to face a suitability test. The authorities have subsequently rectified the error which had occurred due to over-sight or inadvertence. They have the full power to do so and their action ^{on} this score cannot be faulted. If ~~this~~ rectificatory action has resulted in the applicant having to forfeit his incorrectly granted selection-cum-promotion, we do not see how it can possibly be avoided. The applicant is admittedly not senior enough and it also reveals that there are several officials senior to him still awaiting absorption in the promotional post. Under the circumstances we have to hold that any further continuance of the

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applicant in a selection post is not only incorrect, but is also injurious to the interests of his seniors.

9. There is no force in the applicant's argument that he was issued some railway pass even after his reversion was stayed by the Tribunal. It is an irrelevant argument and in no way strengthens his claims. If anything, it is to be held that by issuing the railway passes the authorities have only honoured the stay order granted in the applicant's favour and nothing more.

10. The application is therefore disallowed. The stay order earlier granted is hereby vacated and the orders of reversion issued by OP No.2 is upheld. The applicant will be entitled to draw the pay and allowances of Senior Clerk from 9.3.1992 to to-date.

11. The application is thus disposed of. No costs.


16-XI-93
VICE-CHAIRMAN


MEMBER (ADMINISTRATIVE)

16 Nov 93

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 16.11.1993 B.K.Sahoo

