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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of order : 17.11.95

OA No. 481/1995

Hazari ... Applicant.

versus

Union of India & Ors. ... Respondents.

Mr. Y.K. Sharma, Counsel for the applicant.

CORAM:

Hon'ble Ms. Usha Sen, Administrative Member.

Hon'ble Mr. Ratan Prakash, Judicial Member.

PER HON'BLE MS. USHA SEN :

Heard the learned counsel for the applicant.

2. The applicant was engaged as a Gangman on 15.9.85 and was granted temporary status on 15.9.86. He passed the trade test for driving on 18.2.95. The respondent No. 3 issued a notice dated 20.2.95 (Annexure A/1) wherein it has been stated that the applicant who is being utilised as Jeep Driver shall continue to work as Jeep Driver upto 31.3.95. The applicant has stated that this period was extended from time to time and that he is still working as Jeep Driver. It appears that the respondents now propose to send back the applicant to the and post of Gangman/to accommodate one Shri Kaushal Naresh to work as Jeep Driver in his place. It has also been stated by the applicant that Shri Kaushal Kumar is junior to him and has not passed the trade

test. Although no formal order has been passed by the respondents but the applicant apprehends that he shall be posted as Gangman.

3. The case of the applicant is that he has already passed the trade test as a Vehicle Driver and has been working as such for the last almost ten months; Shri Kaushal Naresh, i.e., the respondent No.5, is junior to him and cannot be given preference in the matter of performing the duties of a Driver; that no notice has been given to the applicant for his reversion as Gangman.

4. We find that the applicant was never appointed as a Jeep Driver on a regular basis. The notice at Annex A/1 dated 20.2.95 reads as under :-

Northern Railway

Office of the  
Dy. Chief Engineer/C-II,  
Northern Railway,  
Jodhpur.

NOTICE

Shri Hazari S/o. Sh. Chotu, Gangman under AEN/C/W/JU who is at present utilised as Jeep Driver shall continue to work as Jeep Driver under AEN/C/W/JU and he is allowed pay benefit in grade Rs. 950-1500 (RPS) upto 31.3.95 from date of issue of this letter.

This has the approval of Dy.C.E./C-II/JU.

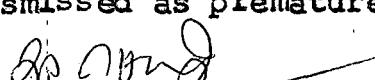
Sd/-  
Dy. Chief Engineer/Const/I  
Northern Railway,  
Jodhpur

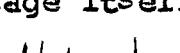
There is no averment in the pleadings that he has been appointed as Jeep Driver on regular basis. The pleadings show that he has only been utilised as Jeep Driver

though he is a Gangman with temporary status. In the circumstances, we are of the view that the applicant has no vested right to continue as Jeep Driver. Further, it is seen that the applicant has not made any representation to the appropriate authority in the matter of his apprehended reversion to the post of Gangman and appointment of respondent No. 5 in his place. He has thus not exhausted the alternate remedies as laid down in Section 20 of the Administrative Tribunals Act, 1985. The applicant has stated ~~that~~ in para 6 that he came to know about his apprehended reversion to the post of Gangman only on 15.11.95; so he had no time to represent his case to the higher authority. He has, therefore, requested that the OA may be entertained without his having made a representation.

5. There is a prayer in the OA that a direction should be issued to the respondents No. 3 and 4 not to send back the applicant to the post of Gangman and to regularise his services ~~in~~ the post of Vehicle Driver.

6. In the facts and circumstances of the case, we do not find that there is sufficient ground before justifying the filing of the OA ~~not~~ having exhausted the alternate remedies as per Section 20 of the Administrative Tribunals Act, 1985. The OA is, therefore, dismissed as premature at the admission stage itself.

  
(RATTAN PRAKASH)  
MEMBER (J)

  
( USHA SEN )  
MEMBER (A)

CVR.