

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
CALCUTTA

OA 637 of 1997

Present : Hon'ble Mr. J.K. Kaushik, Judicial Member  
Hon'ble Mr. A.K. Bhatt, Administrative Member

Bablu Gore & Anr.

- VS -

Eastern Railway

For the Applicant : Mr. T.K. Biswas, Counsel

For the Respondents: Mr. P.K. Arora, Counsel

Date of Order :16-05-2005

ORDER

MR. J.K. KAUSHIK, JM

Shri Bablu Gore and Shri Sankar Mahanandi have filed this application for appearing in the selection to the post of Goods Guard by treating them as reverted in the grade of Rs.1200-2040/- as Trains Clerk w.e.f. the date of their application i.e. 21-4-1997 with further direction to empanel them with all benefits including appointment as Goods Guard.

2. We have heard the Id. Counsel for both the parties in piece-meal on a number of occasion and have very carefully perused the pleadings as well as the records of this case.

3. The abridged facts of this case are that both the applicants at the relevant time in the year 1994 were holding the substantive post of Assistant Head Trains Clerk in the scale of Rs.1400-2300/-. There was a notification for inviting application

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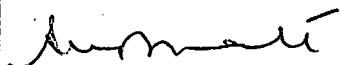
for filling up the post of Goods Guard from various categories in the scale of Rs.950-1400/- and Rs.1200-2040/-. The applicants being in the scale of Rs.1400-2300/- were not allowed to undertake the said selection. However, they appeared in the examination/selection test on the strength of interim order which came to be passed in their favour by this Bench of the Tribunal on 6.6.1997.

4. The applicants have grounded their case primarily on the ground that on previous occasion some of the candidates were allowed to take their reversion from the post of Assistant Head Trains Clerk in the scale of Rs.1400-2300/- to the post of Senior Trains Clerk in the scale of Rs.1200-2040/- and they had also applied for the same, but they were not favoured with any reply from the respondents' side. In this way the action of the respondents is arbitrary and discriminatory. On the other hand, the Ld. Counsel for the respondents has submitted that there were certain subsequent development in the matter inasmuch as the applicant No.1 was further promoted and the applicant No.2 enjoyed, <sup>his</sup> on ~~own~~ request, transfer to other Division as early as in the year 1999 and in this view of the matter, the original application has redereed infructuous. On merits he has submitted that there is no rule for reverting a person from the substantive post on his own request. Since there was no rule to accede to their request, the applicants could not be reverted to the lower post and admittedly they were not eligible for appearing and undertaking the selection which was organised for the post of Goods Guard.

5. We have considered the aforesaid submissions put forth on behalf of both the parties and we find that the Ld. Counsel for the applicant has not been able to show as to under what rule the benefit is being claimed and in what way and under which rule

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the applicant could seek such reversion. We are not persuaded with the contention that at some earlier occasion certain person was allowed to go on reverted post, but not to the applicants. We are also not agreeable to this proposition for extending such relief because the Tribunal cannot perpetuate the illegality and Article 14 can not be used in negative manner. We find that the applicants did not have any enforceable rights to seek reversion. We are supported by the view from the verdict of the Apex Court in a case of State of Bihar - Versus - Kameshwar Prasad Singh wherein their Lordships of the Hon'ble Supreme Court have held in unequivocal terms that one cannot claim any benefit on the basis of wrong order and the Court should not perpetuate the illegality. In this view of the matter, the original application does not have any force on any of the grounds. In the result, the original application sans merits and the same stands dismissed with no order as to costs.



(A.K. Bhatt)  
Administrative Member



(J.K. Kaushik)  
Judicial Member