

O.A. NO. 395/93

SHRI N. DHARMADAN, MEMBER (J)
SHRI S.KASIPANDIAN, MEMBER(A)

 v/s

- By Advocate Shri Thomas Mathew Nellimoottil (Resp. 1-3)

ORDER

N. DHARMADAN

2. Admittedly, at the instance of the CPO, Madras, Annexure-A4 order has been issued, which reads as follows:-

" Shri S.Venkitaraman, now working as Khalasi Helper (TL) side in Scale Rs.800-1150 is inducted to the cadre of AC Khalasis in scale Rs.750-940 and he is assigned seniority position vis-a-vis others alongwith whom he has appeared for suitability test for the post of AC Khalasi though he was not selected or inducted to AC side.

The above mentioned employee will have to seek his further promotion in the AC side only. He will not be permitted to go back to his parent cadre.

His case is considered for induction to AC cadre, based on examination by CPO(G) taking into consideration the number of years he has served in AC cadre without any bad record.

This is issued as per the special order of CPO/G. "

3. Pursuant to the said order, the applicant was relieved so as to enable him to join duty in the AC Wing as AC Khalasi. When applicant reported for joining, the first respondent after allowing him to work for two days as AC Khalasi, issued the impugned order Annexure-A5. It reads as follows:-

" With reference to the above, Shri S.Venkataraman, TL, Helper/TC/TVC is relieved from this end and instructed to report to your office on 5.2.93."

4. Applicant is aggrieved by Annexure-A5. According to him, the first respondent has no authority or jurisdiction to issue such an order. He is incompetent to revert the applicant back to the 'parent cadre'.

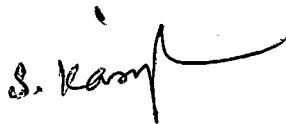
5. In the reply, respondents have admitted all the facts but submitted that applicant's working knowledge is very poor. His services cannot be utilised as AC Khalasi and he may not be of any use to the AC Unit. These contentions are denied by the applicant.

6. If the first respondent feels that the applicant has no experience to work in the AC Unit, he cannot revert the applicant back to his 'parent cadre' in the light of Annexure-A4 proceedings. He cannot issue an order unilaterally without reference to the third respondent of the CPO, Madras, at whose instance Annexure-A4 was passed. if the applicant is inexperienced person for working in the AC Unit, the matter can be placed before the higher


authority for consideration and appropriate decision for modifying/cancellation of Annexure-A4. As indicated above, the first respondent has no authority to issue Annexure-A5 without getting the approval from higher authorities.

7. In the light of Annexure-A4, which is still in force, the applicant has a right to work in the AC Unit. Under these circumstances, we are of the view that the impugned order cannot be sustained. Accordingly, we quash Annexure-A5 and allow the original application.

8. There will be no order as to costs.



(S.KASIPANDIAN)
MEMBER(A)


3.2.94

(N.DHARMADAN)
MEMBER(J)

v/-