

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 299 of 1990 (L)

## Versus

Union of India & Others . . . . . . . . . . . Respondents

Hon'ble Mr. Justice U.C.Srivastava,VC

Hon'ble Mr. K. Obayya, Member (A)

( By Hon'ble Mr. Justice U.C.Srivastava, VC)

Against the reversion order reverting the applicant from the higher to lower post without giving him any opportunity of hearing holding him to be junior to the respondent no. 5 and taking his promotion to be as a result of error the applicant has approached this tribunal praying that the reversion order dated 17.8.1990 may be quashed and the respondent no. 1 to 4 be directed to continue the applicant on the post of H.P.L. Fitter Grade-I in scale Rs. 1320-2040 (RPS) and pay salary month to month. The applicant was engaged as a Khalasi on 19.3.1974 and was appointed as Head Fitter Khalasi on 19.3.1974. He was appointed as H.P.L. Fitter ~~on~~ 1.10.84 in the grade of 950-1500/- and then in the grade of 1200-1800 w.e.f. 1.10.1984 and the grade of 1320-2040 w.e.f. 1.10.1984 i.e. the same date. According to the applicant, he was given the benefits of pay-scale and a rank of grade H.P.L. Fitter w.e.f. 1.1.1984, which is evident from the copy of the order which has been placed on the record, and he was appointed on the post of HPL Fitter Gr.-I after qualifying in the prescribed trade test. The respondent no. 5 was appointed as

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Carriage and Wagon Khallasi on 25.1.1972 and thereafter was appointed as Skilled Tin Smithman on 30.1.1985 i.e. he entered in the Railway Service prior to the applicant. he was promoted to the post of Tin Smith in the grade of Rs. 210-290 vide order dated May, 1984 and this was done after he qualified in the trade test and he was ~~temporarily appointed~~ to the post of High Power Lamp Fitter on 19.7.1984 after he qualified in the prescribed trade test. He was thus promoted to the pay-scale of 210-290 on 24.5.1984, whereas the applicant was promoted in the pay-scale of Rs. 210-290/- on 19.7.1984. As a result of trade test held on 23.8.1986 for miscellaneous Artisan Categories, the applicant was appointed as HPL Fitter -I vide order dated 23.9.1986. The respondent no. 5 was appointed as Tin Smith Grade-I in the pay-scale of Rs. 1320-2040 after passing the trade test vide letter dated 16.8.1990. Thus although, the respondent no. 5 otherwise entered the service earlier was promoted earlier in the particular grade, but in this very grade, the respondent no. 5 was promoted later than the applicant and it appears that ~~were~~ both of them ~~were~~ promoted after passing the trade test. Subsequently, it appears that the Railway Administration vide printed serial no. 8203 issued on 7.12.1982 re-skilled classified the semi-Artisan and the skilled Artisan in the grade of Rs. 260-400 and fixation of pay on proforma basis was to be done w.e.f. 1.10.1978. The Divisional Manager issued a letter dated 19.12.1985 notified that the re-classification of 197 posts on semi skilled grade of Rs. 210-290 and 50% posts of unskilled

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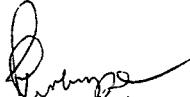
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in the grade of 196-230/200-240/200-250 in the semi skilled grade of Rs. 210-290 and enforcing 5% cut in terms of printed Serial and the divisional cadre strength of carriage and wagon artisans has been placed in the same category and the Printed Serial also provided that the inter-se seniority shall be maintained according to the provisions of para 302 of Indian Railway Establishment Manual.

2. It appears that the matter was agitated by the respondent no. 5 and thereafter as a result of meeting with the Permanent Negotiation Machinery the respondent no. 5 was held to be senior to the applicant and that's why the order was recalled. Thus, the position that appears to be that the reversion order was passed without giving any opportunity of hearing to the applicant who was not participated in the deliberation and although, he had passed the trade test earlier than the respondent who otherwise appears to be senior, but this aspect was not considered that a person who passed in the trade test earlier is senior to one who passes the trade test subsequently. In these circumstances, the reversion order could not and should not have been passed and as such the reversion order dated 17.8.1990 is quashed and the applicant will be deemed to be continued. However, it will be open for the Railway Administration to consider this matter again and decide the question of seniority between the applicant and respondent no. 5 and in case, it is found that the respondent no. 5 is senior after taking into consideration not only paragraph 302 of the Railway Establishment Manual, but also that the applicant passed the trade test earlier and also taking the date of trade test and posting in a particular grade only then

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the respondent no. 5 can be held to be senior. Merely because he is senior that will not be necessarily mean that the applicant is to be reverted. As the applicant was promoted by the Railway Administration itself, as a result of trade test and it is because of declaring of various test together, the respondent no. 5 has been made senior otherwise the categories were different. Let this matter be done within a period of 3 months. With these observations, the application is disposed of finally. No order as to costs.

  
Member (A)

  
Vice-Chairman

Lucknow Dated: 16.12.1992

(RKA)