

CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH,

LUCKNOW.

Original Application No.67 of 1991(L).

Today, the 14<sup>th</sup> day of February, 1995.

HON.MR.JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.

HON. MR.V.K. SETH, ADMINISTRATIVE MEMBER.

Arun Kumar Srivastava,  
aged about 36 years,  
Son of Shri SriRam Srivastava,  
Resident of 52, Udaiganj,  
LUCKNOW.

::: Applicant.

BY ADVOCATE SHRI R.K.YADAVA

VERSUS

1. The Union of India,  
Ministry of Railways,  
through the Secretary,  
Railway Board,  
NEW DELHI.

2. Chief Works Manager,  
Northern Railway,  
Loco Shop,  
Charbagh,  
Lucknow.

3. The Chemist,  
Meturlagist,  
Northern Railway,  
Locomotive Workshop,  
Charbagh,  
Lucknow.

::: Respondents

BY ADVOCATE SHRI ANIL SRIVASTAVA.

O R D E R.

JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.

Through this O.A. the applicant has challenged the order of his reversion from the post of Laboraroty Assistant. The order of reversion is dated 13-2-91 and a copy thereof is Annexure-1. A perusal of the said order shows that the applicant was officiating as Laboratory Assistant on local adho basis and since he could not qualify for the post of Laboratary Assista<sup>n</sup>t he was reverted. The applicant, by an order dated 17-6-81, copy of which is Annexure-2, was allowed to officiate as Laboratory Assistant on purely temporary, local, sectional arrangement. It was also specifically indicated in the said order that the applicant must understand that his promotion is purely on temporary, sectional, adhoc basis and he has got no claim on the post of Diesel Laboratory Assistant and he would be reverted when eligible selected staff is available for the post. The applicant continued in that capacity till the passing of the impugned order dated 13-2-91. At the time of passing of the order dated 17-6-81, the applicant was senior-most Diesel Laboratory Cleaner, as would be evident from Annexure-2. After his reversion the applicant was, by an order dated 22-2-91 (Annexure-9), posted back to Diesel-Shop as Skilled Fitter(Mech.) in the grade of Rs.950-1500 on a pay of Rs.1010/-w.e.f. 22-2-91. From Annexure-10 to the O.A. it is evident that the post of Laboratory Assistant is in the scale of Rs.975-1500. Thus, evidently the applicant has not suffered in the matter of emoluments by reason of the impugned reversion order. The post of

Diesel Laboratory Assistant is to be filled on the basis of written test and interview. The applicant was given an opportunity of appearing at the selection. He did not qualify in the written test and consequently the order for his reversion from the post of Laboratory Assistant was passed. The learned counsel for the applicant submitted that the applicant had been officiating on the said post for about 10 years and his non-selection is arbitrary.

2. The learned counsel for the applicant, in support of his submission, cited before us a Supreme Court decision 1994 S.C.C.(L & S) 790 A.N. Manchanda and Another Vs. State of Haryana & Another. In the said case the provisions of Rule 6 & 7 of the Haryana Service of Engineers, Class II, Public Works Department (Irrigation Branch) Rules, 1970 were analysed in the context of the fact that the appellant had been reverted on his failure to pass departmental qualifying examination within the prescribed period. The facts, in the said case, show that the examination which was due in November, 1980 was actually held in August, 1982 and though the appellant had passed the examination held in August, 1982, the order of reversion was passed on the basis that he passed the examination after the prescribed period of 3 years. In the circumstances of the case the order of reversion was set aside. The said decision was on the basis of the particular facts of the appeal before the Apex Court and on the basis of the relevant service rules. No such circumstances or rules exist in the case in hand before us. The applicant, therefore, cannot draw any support from the aforesaid decision of the Hon'ble Supreme Court.

3. The learned counsel for the applicant next cited a decision of the Punjab & Haryana High Court reported in 1987 (2) S.L.R. 278 S.L.Salaria Vs. The State of Punjab and Others. We have considered the said decision. We do not find any proposition of binding facts having been laid down in the said decision which could be applicable to the facts of the present case. In the said case the petitioner was reverted since after availing 4 chances in the departmental examination he qualified in 6 out of 7 papers in higher standard. The order of reversion was not set aside and it was only provided that in case the petitioner clears the remaining one paper in the next departmental examination in higher standard, his case for promotion may be considered. The learned counsel for the <sup>applicant</sup> submitted that a similar direction may be given in the present case also. As noted herein above, the applicant has not suffered in the matter of emoluments and he has been given equivalent post. No such statutory provision of prescribed chances in the departmental examination has been alleged to be there as far as the post of Laboratory Assistant is concerned. Thus, no such direction as given in the case of H.L. Salaria (Supra) is possible.

4. The learned counsel for the applicant next submitted that the applicant had officiated in the said post for almost a decade and thus an order for reversion could not be passed without following the procedure laid down in the Railway Service(Discipline and Appeal) Rules. A Railway

Board Circular of 1966 provides that an adhoc promotee, if satisfactorily worked for more than 18 months, his reversion without following the procedure under the Railway Service (Discipline & Appeal) Rules was not proper. The learned counsel for the applicant cited a decision of the Cuttack Bench of C.A.T. reported in 1987(3)(CAT) 283 B.S. Rao & Others Vs. Union of India and Others.

5. The decision of the Cuttack Bench of the C.A.T. is no longer a good law in view of the Full Bench decision of the Principal Bench of the CAT, New Delhi, reported in 1990 (13) A.T.C. 212 Jethanand and others Vs. Union of India and Others which was cited by the learned counsel for the respondents. The said Full Bench decision also negatives the plea that since the applicant had officiated for about a decade, he had a right for regularisation of his services since they were satisfactory. The Full Bench has laid down that mere officiation of 18 months of more does not give rise to a right for regularisation. Passing the Selection Test is a must. No other ground is urged.

6. In view of the discussion herein above, the O.A. is dismissed. Costs easy.

*u/s*  
MEMBER (A)

(nair)

*B.C. Lakshmi*  
14/2/95  
VICE-CHAIRMAN.