

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW PENCH

Original Application No. 239 of 1992.

this the day of 22.11.1999.

HON'BLE MR. D.C. VERMA, MEMBER JUDICIAL

HON'BLE MR. A.K. MISRA, MEMBER ADMINISTRATIVE.

Govind Narain Tewari, aged about 27 years,
son of Sri. Pratap Narain Tewari, resident,
of 253, Mavaiya, Lucknow.

...Applicant.

By Advocate:-None.

Versus.

Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.

2. The Deputy Chief Mechanical Engineer, Northern,
Railway, Carriage & Wagon Shops, Alambagh, Lucknow.

3. Sri. Hari Gopal Singh, Ticket No.47-C, Signwriter,
grade-III, son of Sri. Hari Singh, Carriage and Wagon,
Shop, Northern Railway, Alambagh, Lucknow.

...Respondents.

By Advocate: None.

O R D E R (Oral)

BY D.C. VERMA, J.M.

By this O.A. the applicant has claimed that
the order of absorption of respondent No.3 on the post
of Signwriter Grade-III scale Rs.950-1500 be quashed as

illegal arbitrary and malafide. The further prayer is that the applicant be not reverted from the post of Signwriter Grade-II (Rs.1200-1800) until for the period the respondent no.3 completes 2 years of required period.

2. The brief facts of the case is that the applicant was appointed as Khallasi in the grade Rs.750-940 and was subsequently promoted on various posts of Signwriter grade-III on 15.7.1988, Signwriter grade-II on 8.3.1993 and Signwriter grade-I on 1.10.1994. Though it is not mentioned in the O.A. but recitals made in the C.A. shows that from the post of Khallasi the applicant was promoted as helper Khallasi on 26.9.1987. The respondent no. 3 Hari Gopal Singh who belongs to Scheduled Caste catagory was promoted as re-classified skilled in grade 950-1500 with effect from 25.9.1990 and designated as sign writer with effect from 8.1.1991. As per General Manager's letter dated January 1989 respondent no. 3 has to complete his 2 years service in required grade of Rs.950-1500 for being promoted for the post of Signwriter Grade-II. The respondents case is that two posts of signwriter grade II in scale 1200-1800 fell vacant in the recruitment year 1991-92 due to normal retirement. Both these posts were reserved posts for SC candidates. One post was shortfall of last recruitment year and the other being reserved point of the recruitment year 1991-92. As there were only 2 vacancies and 50% could



have been filled from the reserved candidates, hence the senior most in the Signwriter Grade-III i.e. Abdul Waleem Khan was promoted on the post of Signwriter grade-II. The Abdul Waleem Khan, was senior to the applicant and was a general candidate. For the other post, reserved for SC candidate, the applicant could not have been promoted as the applicant was of general category. Consequently, the respondent no. 3 was to be promoted to the post of Signwriter Grade-II. As the respondent no. 3 had not completed the required period of 2 years in the grade 950-1500 he could not be promoted. The applicant was aware of this situation so he made an application Annexure-A-3 dated 3.10.1991 that he may be promoted against the said reserved post and that the applicant would may be reverted back after the S.C. candidate completes the 2 years of required period. It was, thereafter that the order Annexure-A-4 dated 24.10.1991 was passed and the applicant was promoted to the post of Signwriter Grade-II. In the order it was specifically mentioned that the period of 2 years of the reserved category candidate i.e. respondent no. 3 would be completed on 20.4.1992 and thereafter the applicant would be reverted back to his substantive post, to promote the respondent no. 3.

3. The facts brought out in the pleadings of the parties shows that the promotion of the applicant on the



post of Signwriter Grade-II was an undertaking given by the applicant against a post reserved for SC candidate. The applicant being a general category candidate could not have been promoted to a post reserved for SC candidate unless the said post have been de-reserved. It was on the basis of under taking that the applicant was being promoted till the SC candidate become eligible. Thus the applicant has no right to remain on a post reserved for a SC candidate unless the post was de-reserved. It is not a case of the applicant that the post was ^{at} any time de-reserved. Therefore the order reverting the applicant on substantive post is valid.

4. The respondent no.3 was promoted as re-classified skilled in grade 950-1500 w.e.f. 25.9.1990 and the post was designated as Signwriter grade-III w.e.f. 8.1.1991. As per General Manager's letter dated January 1989. The General Manager's letter no. 522 E/399/E 11W dated January 1989 has not been challenged. The respondents case is that as per para-123 and 124 of the Indian Railway Establishment Code, Volume-I, the General Manager has full powers to prescribe the service conditions of class-III and class-IV staff, consequently, the General Manager was within his power to issue the letter of January 1989. As the said letter has not been challenged the applicant cannot get the relief, claimed in the C.A.. In our view the respondents



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has force as the General Manager's latter dated January 1989 has not been challenged the relief claimed by the applicant for quashing the absorption of respondents no. 3 cannot be granted.

5. In view of the above, we find no merits in the O.A. The O.A. is therefore dismissed. Costs easy.


MEMBER (A)


MEMBER (J)

Dated: -22.11.99.
Lucknow.
Amit/-