

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH



O.A. No.

198

T.A. No. 220/87

DATE OF DECISION 18-11-91

Abdul Samman Mohd. Sheerao Petitioner

Mr. S. A. Babale Advocate for the Petitioner (s)

Versus

U.O. & Others Respondent

Mr. S. V. Nalhu Advocate for the Respondent (s)

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By Hon. Mr. Justice V. C. Srivastava, J.C.

The Hon'ble Mr.

Justice V. C. Srivastava J.C.

The Hon'ble Mr.

M. Y. Pralhar, A.M.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH  
CIRCUIT BENCH : NAGPUR

Registration T.A.No. 220 of 1987

Abdul Sannan Mohd.Sheroo ..... Applicant

Vs.

Union of India & Others ..... Respondents

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

Hon'ble Mr. M.Y. Priolker, Member (A)

(By Hon.Mr.Justice U.C.Srivastava, V.C.)

The applicant was appointed as a Turner-B on 1.7.1968 after getting the requisite training at the Machine Tools Proto-Type Factory, Ambarnath. On 5.5.1975 the applicant sought transfer from Machine Tools Proto-Type Factory, Ambarnath to Ordnance Factory Ambazari, Nagpur in the same grade of Turner-B. The applicant received a letter dated 2.6.75 telling him that he has become quasi-permanent with effect from 1.7.72. The transfer sought by the applicant was granted <sup>was</sup> and the rule/that anyone who goes on transfer on such a request on compassionate grounds would lose his seniority in the existing post and that fresh seniority would begin from the date he consciously joins the said post.

2. It appears that after the interview in which the applicant was also called, the applicant was promoted as Supervisor Grade-B on 4.9.76. Later on it was discovered that the applicant was at the bottom in the seniority and his starting point was 1975 and not 1968. He was not entitled for such promotion and that is why he was reverted. Despite

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this reversion order the applicant was again promoted to the post of Supervisor Grade-B vide Factory order dated 31.5.78, and the notional seniority was given to him with effect from 4.8.76. In the meantime applicant was also promoted to the post of Chargeman Grade-II vide Factory order dated 15.3.80, and from this post he had been reverted by the impugned order to the original post of Turner-B. That is why he approached this Tribunal.

3. The respondents have challenged the contention raised by the applicant and stated that at every stage because of the mistake the applicant was promoted, although he was not entitled to promotion. As he was at <sup>the</sup> bottom in seniority his promotion meant supersession of so many persons. It has been stated that the persons senior to the applicant have not been promoted to the post of Chargeman Grade-II, and he has wrongly superseded 74 persons who are holding the post of Chargeman Grade-II. Similarly, in being promoted as Supervisor 'B' from 4.8.76, he has superseded 158 Supervisors 'B' who are not yet promoted as Chargeman Gr. II. But it has also been admitted that by virtue of his seniority the applicant would have got promotion to the post of Supervisor 'B' only on 13.5.83. The applicant is holding the higher <sup>order</sup> post because the interim/ passed by the Tribunal.

4. Learned counsel for the applicant contended that not only one but the applicant had got three promotions, and the applicant got even higher promotion to the post of Foreman and as such he-


he could not have been reverted to the post of Turner, and the mistakes could not have been committed

repeatedly and even if the mistake was committed repeatedly the principle of ~~estoppel~~ would <sup>apply</sup>, and the respondents are bound to the principle of ~~estoppel~~, not to revert the applicant again. It has also not been stated, how the other persons and the applicant have changed its position because of this promotion order. No promise by the respondents to promote the applicant could be pointed out from which the principle of ~~estoppel~~ could be deduced. Even if the applicant continued to remain on the post for 6 years i.e. on higher post, if the mistake was detected later on the applicant could have been reverted as the third party interest should not have been <sup>affected</sup> ~~affected~~ and that is without giving him any opportunity in the matter. As such this plea is <sup>going</sup> to fail. However, it is the sad commentary on the working of the respondents, that they have promoted a person without taking into correct, legal and factual position, and after taking work from him, and after giving him experience and reverting him in that manner. The government is not supposed to work in such a careless manner, as it has done in this case, and the applicant has been made to suffer because of the mistakes which have been committed by the respondents **itself**. As such ~~although~~ the applicant cannot supersede various other persons, but ~~it~~ is desirable that because of the mistake the respondents may <sup>consider</sup> ~~is~~ creating a post for the applicant without superseding other persons in which they may

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give him some benefits or take benefit of the experience. With the above observations the application stands disposed of. There will be no order as to costs.

  
Member (A)

  
Vice-Chairman

18th November, 1991, Nagpur.

(sph)