

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 124/99.

Date of Decision: 8/3/99.

S.Nambi

Applicant.

Shri G.S.Walia

Advocate for
Applicant.

Versus

Union of India & 3 Ors.

Respondent(s)

Shri V.S.Masurkar

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri. D.S.Baweja, Member(A).

(1) To be referred to the Reporter or not? *ND*

(2) Whether it needs to be circulated to
other Benches of the Tribunal? *ND*

R.G. Vaidyanatha

(R.G.VAIDYANATHA)
VICE CHAIRMAN

abp.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO.6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO:124/99.

DATED THE 8TH DAY OF MARCH, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri D.S.Baweja, Member(A).

S.Nambi,
Presently working as Head Typist,
Under Dy.Chief Engineer(C-II),
Western Railway,
Head Quarters Office,
Churchgate,
Mumbai - 400 020.

... Applicant.

By Advocate Shri G.S.Walia.

v/s.

1. Union of India, through
General Manager,
Western Railway,
Head Quarters Office,
Churchgate,
Mumbai - 400 020.
2. Chief Administrative Officer(C),
1st Floor, Station Bldg.,
Western Railway,
Churchgate,
Mumbai - 400 020.
3. Divisional Railway Manager,
Mumbai Division,
Western Railway,
DRM's office,
Bombay Central,
Mumbai - 400 008.
4. Smt. S.G. Salunke,
Working as Sr.Typist,
Working in
CAO(C)Office,
Churchgate,
Mumbai - 400 020.

... Respondents.

By Advocate Shri V.S.Masurkar

I O R D E R X

X Per Shri R.G.Vaidyanatha, Vice Chairman X

In this application, the applicant is challenging
the order dated 13/1/99 and also is apprehending reversion
from the post of Head Typist to that of senior Typist.

Respondents have filed a short reply opposing the application.

We have heard both counsels regarding admission and Interim Relief.

2. The applicant's grievance is that he was promoted as adhoc Senior Typist on 29/10/84 and he was formally regularised on 7/2/97 and again came to be promoted as Head Typist on 10/7/98. Now by impugned order dated 13/1/99 applicant is sought to be reverted on the ground that he did not have two years regular service as Senior Typist for being promoted as Head Typist.

Respondents in their reply have asserted that one must have regular service of two years in the feeder cadre namely Senior Typist to become a Head Typist. It is further stated that the letter dated 13/1/99 is only an inter departmental communication and not an order issued against the applicant. It is also further stated that if any action is to be taken against the applicant, he will be given full opportunity by giving show cause notice and then only order will be passed.

After hearing both the counsels, the OA is being disposed of at admission stage as there is only short point for consideration.

Applicant's grievance is that though he was promoted as Senior Typist on adhoc basis from 1984 and he continued in that post for 13 years, and then it was formally regularised and he prays that the adhoc service should also be counted for the purpose of promotion to the next higher post. Applicant's counsel strongly relied on circular No.PS.No.137 No.EP220/10/I which is based on Railway Board letter dated 4/6/84 and notification dated 26/5/84 issued by Railway Board,



wherein it is mentioned that adhoc service can be counted for the purpose of promotion to the next higher post.

Admittedly, the applicant was promoted on adhoc basis as Senior Typist on 29/10/84 and he has put in 13 years as adhoc Senior Typist. The question is whether adhoc promotion should be taken into consideration for the purpose of next promotion. The applicant has been promoted on adhoc basis as adhoc Head Typist on 10/7/98. We feel that status quo should be maintained, namely the applicant should be allowed to continue in the above post and if the Department feels that his promotion as Head Typist is wrong and contrary to rules, the department should issue a show cause notice mentioning the grounds on which he is sought to be reverted. It is open to the applicant to give representation in writing; then the applicant may be heard in person. Then, it is for the competent authority to pass a speaking order and if any adverse order is passed, it is open to the applicant to challenge the same according to law.

But in order to safeguard the interest of the applicant, we feel that in case any adverse order is passed, the respondents should not give effect to the same for a period of 3 weeks from the date of service of the order on the applicant. The Competent Authority shall give a personal hearing to applicant if requested by applicant and then pass a speaking order.

4. In the result, the OA is disposed of with a direction to respondents to consider the case of the applicant's promotion to the post of Head Typist and consider the question of reversion, if any, in the light of the observations in para-3 made above. In the circumstances of the case, there will be no orders as to costs.


(D.S. BAWEJA)
MEMBER (A)

abp.


(R.G. VAIDYANATHA)
VICE CHAIRMAN