

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.860/99.

Thursday, this the 30th day of March, 20000.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri D.S.Baweja, Member (A).

Babubhai Mohanbhai Patel,
C/o. G.S.Walia,
Advocate, High Court,
16, Maharashtra Bhavan,
Bora Masjid Street,
Behind Handloom House, Fort,
Mumbai - 400 001.Applicant.
(By Advocate Mr.G.S.Walia)

Vs.

1. Union of India through
General Manager,
Western Railway,
Head Quarters Office,
Churchgate,
Mumbai - 400 020.Respondents.
2. Divisional Railway Manager,
Mumbai Division,
Western Railway,
Mumbai Central,
Mumbai - 400 008.
(By Advocate Mr.Suresh Kumar)

: O R D E R (ORAL) :

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed by the applicant for quashing the impugned order of reversion dt. 30.8.1999 and for other consequential reliefs. The respondents have filed reply opposing the application. We have heard Mr.G.S.Walia, the learned counsel for the applicant and Mr.Suresh Kumar, the learned counsel for the respondents.

2. The short point for consideration in this application is whether the impugned order of reversion dt. 30.8.1999 is sustainable in law or not.

...2.



To decide this question, few admitted and undisputed facts are sufficient. Admittedly, the applicant was engaged as a Khalasi by the Railway Administration w.e.f. 3.12.1975. It appears that applicant was promoted on ad-hoc basis as a Tracer for a period of three months w.e.f. 6.7.1984. Though it was an ad-hoc promotion for three months, it continued for 15 years. We may also notice that applicant was working as a Ferro Printer between 1975 and 1984. It appears, in 1989 the post of Tracer was frozen and it was upgraded as Junior Draftsman. However, the applicant continued to remain as Tracer. Now, in 1999, the department has passed the impugned order of reversion dt. 30.8.1999 stating that he is reverted to the post of Khalasi.

3. After hearing both sides and going through the admitted and undisputed materials, we find that it is an unfortunate case where for no fault of the applicant he is now being reverted from the post of Tracer to the post of Khalasi having worked as Tracer though on ad-hoc basis for 15 years now he has to go back as Khalasi. But, we cannot say that the Administration is wrong, since as per rules the applicant cannot be continued as Tracer since the post has been either abolished or upgraded. In these circumstances, we have to do justice between the parties. Since the applicant is working in higher post for the last 15 years, he cannot now be condemned to the lowest post of Khalasi. The administration has mentioned in the impugned order that he is entitled to further promotion on par with his junior Subhash D who is now working as ELF Grade-I. To get into Fitter Grade, the applicant will have to pass certain Trade Test. He has to first pass the Trade Test for Fitter Gr.III and if he is successful he must pass the next Trade Test to get into Fitter Gr.II and then

he has to pass one more Trade Test to get into Fitter Gr.I. Therefore, applicant cannot get automatically Fitter Gr.I though his junior has already reached Fitter Grade - I. Since there was no fault on the part of the applicant, we feel that the applicant's pay should be protected for the present and in the meanwhile, he should be given opportunity to pass the relevant trade test and get the necessary grades like Fitter Gr.III, II and I.

4. In the facts and circumstances of the case and in the peculiar facts and circumstances of the case, we feel that this is a fit case where the applicant's pay which he is now getting as Tracer should be protected, though he is reverted as Khalasi, for a period of 15 months provided he successfully passes all the trade tests of Fitter Gr.III, II and I. However, if he fails in any of the trade test, then this pay protection is only up to the date of result of the trade test and if he fails in any particular test, he will have to take the pay scale of either Khalasi or whichever Fitter Grade he has entered by that time.

In the circumstances, we direct the administration to hold trade test for the applicant for Fitter Grade III within a period of three months from the date of receipt of copy of this order. In case, he successfully passes it, then he must be promoted as Fitter Gr.III and then within six months he may be subjected to further trade test for promotion to Fitter Gr.II and in case he passes the test he should be accordingly promoted to Fitter Gr.II and in another six months he may be subjected to further trade test for promotion to Fitter Gr.I, if he successfully passes that test he should be promoted as Khalasi Gr.I. When he enters the Fitter Gr.I after successfully passing



the three trade tests then his pay shall be fixed on par with his immediate junior Subhash .D.

5. It appears that applicant is not attending the office in view of the impugned order of reversion. We feel that in the circumstances of the case, the applicant should be given an opportunity to report to duty within one week from the date of receipt of copy of this order. The applicant while reporting for duty, may also apply for regularisation of his absence from the date of reversion till the date of joining. This period may be regularised either by granting leave which is to his credit or if leave is not at his credit, he must be granted Extraordinary ^{Without Pay} Leave, so that the period can be regularised.

6. In the result, the OA is disposed of by stating that the impugned order of reversion is subject to the observations made in paras 4 above. In the circumstances of the case, there will be no order as to costs.


(D.S. BAWEJA)

MEMBER(A)



(R.G. VAIDYANATHA)
VICE-CHAIRMAN

B.