

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE SIXTEENTH DAY OF OCTOBER 1986

Present : Hon'ble Shri Ch. Ramakrishna Rao ... Member (J)

Hon'ble Shri P. Srinivasan ... Member (A)

APPLICATION NO. 853/86(T)

B.K. Somasekhar,
S/o B. Krishnaiah,
Chief Booking Clerk,
South Central Railway,
Bellary

... Applicant

(Shri Ranganath Jois ... Advocate)

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The Chairman,
Railway Board,
New Delhi.

The General Manager,
South Central Railway,
Secunderabad (A.P.),

The Divisional Railway Manager,
South Central Railway,
Hubli.

The Station Master,
South Central Railway,
Bellary.

... Respondents

(Shri M. Srirangaiah ... Advocate)

This application came up before the Court for hearing today,
Hon'ble Member (A) made the following:-

ORDER

The applicant who was working as Chief Booking Clerk at Bellary on the pay scale of Rs.455-700 was promoted by an order dated 13.8.81 to the grade of Rs.550-750 on an ad hoc basis against a post of Senior Commercial Inspector but retained in the same post of Chief Booking Clerk at Bellary where he was working. After five months of this ad hoc promotion, the Divisional Personnel Officer, Hubli, reverted him to the scale of Rs.455-700 by an order dated 16.1.82 (Annexure B) and transferred him to Miraj from Bellary where he was working. The

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transfer was said to be on administrative grounds. The applicant is aggrieved with this order of reversion and transfer at Annexure B.

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2. The main argument of Shri ~~M.S.~~ Jois, learned counsel for the applicant is that though the applicant was holding the post in the grade of Rs.550-750 on a purely ad hoc basis, his reversion back to the grade of Rs.455-700 amounted to a punishment and visited civil consequences on him and that, therefore, he should have been given an opportunity of being heard before such reversion as required by Article 311(2) of the Constitution. He supported his contention by pointing out that a surprise check of the applicant's office was made by the Divisional Railway Manager on 9.1.1982 on a casual visit to Hubli Station and the order reverting and transferring him made on 16.1.1982 was a direct result of this incident and so should be treated as a punishment. He relies in this connection on para 3 of the reply of the respondents wherein it has been stated as follows:-

"During the surprise inspection conducted by the Chief Commercial Inspector/Hubli under the orders of Divisional Commercial Superintendent/Divisional Railway Manager/Hubli on 9.1.1982, it was revealed that he had failed to carry out his day-to-day work of Booking Office. As his work was found unsatisfactory and as his promotion to scale Rs.550-750 (Revised) was purely on ad hoc basis, he was reverted to the lower scale of Rs.455-700 (Revised Scale) and transferred to Miraj on Administrative Grounds under this office order No.C/3/82 of 16.1.1982 (H/P.676/III/9/Vol.27) as per Annexure 'B' produced by the petitioner."

This showed, Shri Jois argued, that the applicant was really punished by reversion and transfer and, therefore, the protection of Article 311(2) of the Constitution should have been afforded to him.

3. Shri M. Srirangaiah, learned counsel for the respondents
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contended on the other hand, that the promotion of the applicant

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to the grade of Rs.550-750 was a purely ad hoc one conferring no right on him to continue in the grade. A person who is promoted in an ad hoc arrangement is liable to be reverted to his former post at any time without notice. The applicant's reversion in these circumstances can, therefore, in no way be regarded as a reduction in rank covered by Article 311(2). The surprise check only provided an opportunity to the respondents to ascertain whether the ad hoc arrangement was working satisfactorily and if it was not to terminate it. The observation made during the check that the applicant had failed to carry out his day-to-day work and that his work was found to be unsatisfactory convinced the authorities that the ad hoc arrangement by which the applicant was posted as Chief Booking Clerk in a higher grade had failed to achieve its purpose and it was necessary in the interest of the administration to put an end to the arrangement. Therefore, administrative grounds being the dominant factor and the reversion and transfer of the applicant (who had been Chief Booking Clerk in the same station even before his promotion to the higher grade) being an incidental result, it is not right to say that the applicant was being punished and was, therefore, entitled to the protection of Article 311(2). A routine order by which a person promoted purely on an ad hoc basis to a higher grade is restored to his original grade on administrative grounds does not amount to a reduction in rank under Article 311(2).

4. Before dealing with the arguments advanced on both sides, we may first examine the nature of the applicant's appointment to the higher grade of Rs.550-750. The order promoting the applicant to that grade clarifies that he was being "promoted to Rs.550-750 on ad hoc basis and retained at CBC/BAY against the released post SCI/STR in scale Rs.550-750" th and _{we} are told that the order was to take effect from 13.9.91. The expression ad hoc means,

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according to the Concise Oxford Dictionary "for this particular purpose; special, specially". It is the first meaning which seems to be the appropriate one for our present purpose. Substantially the same meaning appears in Black's Law Dictionary 5th Edition - "for this; for this special purpose ...". In practice it has come to mean "for the time being" and an ad hoc appointee has no right to continue in the post to which he is appointed. His service can be terminated without notice, if he is found unsuitable to hold the post. In this respect the tenure of an ad hoc appointment is even more precarious than ^{that of} a temporary one. Barring cases where such appointments are continued indefinitely (as in AIR 1986 SC 638) for long periods thereby nullifying the ad hoc nature of the appointment, an ad hoc arrangement is a stopgap arrangement which can be discontinued at any time when the authority feels that it is not working satisfactorily.

5. Turning to the present case, the applicant's promotion on ad hoc basis became effective on 18.8.81 and the order reverting him to his former grade was made on 16.1.82, i.e., within 5 months. The applicant was not allowed to hold the ad hoc appointment for long periods as noticed in certain cases by the Supreme Court (eg AIR 1986 SC 638) and it was therefore for all intents and purposes an ad hoc appointment as it was indeed described in the order of promotion itself. The reversion took place admittedly after a surprise inspection of the applicant's office by his superiors. According to the application itself, the superior authority was on a casual visit to the station and, therefore, the visit or the surprise check was not intended to make any inquiry against the applicant or his conduct. The surprise check revealed that the applicant was not attending to the day-to-day work satisfactorily and as a result the work of the booking office had

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suffered. It, therefore, became necessary in the opinion of the Divisional Railway Manager to transfer the applicant out of the post at Hubli and that was done. It seems to us, therefore, that the respondents acted in the way they did because they felt that the ad hoc arrangement was not working satisfactorily. They, therefore, resorted to the simple device of reverting the ad hoc promotion of the applicant. Obviously they did not consider it immediately necessary to initiate any proceedings against the applicant and calling for his explanation; if they did so later we do not know. Therefore, we are of the opinion that the reversion and transfer of the applicant was a routine administrative action which did not amount to a punishment. As pointed out in K.H. Phadnis's case (1971) 1 SCC 790), the loss of pay on reversion to his former post incurred by the applicant cannot be said to have any penal consequences. Considering the matter as one of substance and taking all relevant factors we are satisfied that applicant was not entitled to the protection of Article 311(2) of the Constitution.

6. In the result the application is dismissed. Parties to bear their own costs.

Chandrasekhar
MEMBER (J)

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MEMBER (A)

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