

CENTRAL ADMINTSTRATTVE TRTBUNAL
MUMBAT BENCH

OA 719/1997

Mumbai, this the 22 day of June, 2001

HON'BLE SHRI S.L.JATN, MEMBER (J)
HON'BLE SHRT GOVTNDAN S. TAMPT, MFMBER (A)

Shri Mahadeo Arjun Waghmare
S/o Shri Arjun Kerappa Waghmare
Age : 57 yrs.
Working as Manager A.P.M.C.
Mumbai, 400 099 (under orders of
reversion as U.S.D. Circle Office
R/at : 0-1/5, P&T Colony,
Vakola Santacruz,
MUMBAI - 400 029.

...Applicant

(By Advocate : Shri S.P.Kulkarni)

V E R S U S

(R) UNION OF INDIA

THROUGH

1. D.G. (Posts) & Ex-Officio
Secretary,
Department of Post, Ministry
of Communication, Govt. of India
Dak Bhawan, 20 Asoka Road,
Parliament Street, New Delhi - 110 001.

2. Chief Postmaster General
Maharashtra Circle, Old G.P.O.
Building, 2nd Floor, Near C.S.T.
Central Railway - G.P.O.
Fort, Mumbai - 400 001.

3. Shri G.D.Patil
Senior Superintendent of Post
Offices, North East City Division
Bhandup, MUMBAI - 400 078.

...Respondents

(By Advocate Shri S.S.Karkera, proxy
for Shri P.M.Pradhan, for R-1 & R-2.
Shri S.P.Inamdar, for R-3)

O R D E R

By Hon'ble Shri Govindan S. Tampi,

Shri M.A.Waghmare, has in this OA challenged his
reversion by order dated 23-7-97 and has sought
directions to the respondents to treat him as having
continued to hold the J.T.S. 'A post'.

2. Heard Shri S.P.Kulkarni, learned counsel for the applicant while official respondents were represented by Shri S.S.Karkera, proxy for Shri P.M.Pradhan and the private respondent by Shri S.P. Inamdar.

3. Brief facts in this case are that the applicant, a Schedule Caste candidate who joined as Inspector of Post Office and Railway Mail Service through competitive examination became a Member of Postal Services Group 'B' by Directorate's Memo No. 9-17/93-SPG dated 13-10-1993. Respondent No.3 was also selected by the same memo and he had ranking at 764 as against of the applicant, who is on '912. While regular promotion to the post of JTS Group 'A' is to be made by selection through Special Roster for vacancies up to 29-1-1997 and thereafter on post based reservation, the ad hoc postings are to be made on the basis of seniority. Keeping the above in mind, the applicant had been posted on ad hoc basis to JTS group 'A' on 23-4-97, on the basis of Special Roster while respondent-4 was not so promoted. After the decision of the Supreme Court in the case of R.K.Sabharwal, the Department sought for and obtained clarifications with reference to post based reservations, but there was no mention in any of them that ad hoc promotions already made on the basis of Special Roster point should be reviewed and reversions be ordered by applying the R.K.Sabharwal's decision retrospectively. Inspite of that, the respondents unsettled the ~~matter~~ by reverting him, while promoting Shri G.D.Patil (private respondent). Though Shri G.D.Patil was originally senior to the applicant, the applicant had been promoted on ad hoc basis earlier

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keeping in view the Special Roster for Ad hoc Promotions. Shri G.D.Patil was thus promoted on a later date, but on the regular appointment and allocation of a Group 'A' Officer to Maharashtra Circle, the applicant was reverted instead of reverting Shri Patil, who was the junior in JTS grade. This was incorrect as the person who was promoted last should have been considered as the junior most person and reverted instead of the applicant, is what he prays. He also says that it was the responsibility of the Govt. to ensure that the representation of the SC/ST in service and post should be maintained and the percentage are not permitted to be lowered in any manner. Shri S.P.Kulkarni strongly endorses the case of the applicant and states that being a person who has been promoted against a Special Roster for Ad hoc appointment, he could not have been reverted merely because someone has been appointed on regular basis, especially as someone promoted after him was retained.

4. Contesting the above, respondents indicate that the applicant was promoted on a purely ad hoc basis for a short term vacancy. Though G.D.Patil was promoted on a subsequent date than the applicant, he had ranked higher in the All India Seniority List at 764 against the applicant, at 912. Further in terms of DOPT's OM No. 20011/2/97-Estt (D) dated 21-3-1997 duly circulated by the Postal Directorate on 11-6-97, the General Category/OBC officials promoted to the next higher post regained their seniority on such promotion to the higher grade. Shri G.D.Patil having so regained the position, he was correctly promoted and the applicant being a junior most had to be reverted. This became necessary

on account of the posting of a Probationer to the Circle and in terms of the existing orders when regular promotions are made, subsequent reversions of ad hoc appointees should take place strictly in the reverse order of seniority, the junior most candidate being reverted first. No special concessions are to be given to SC/ST candidates at the time of reversion. This has been strictly followed by the respondents and they have not done anything incorrect. While conceding that the applicant was considered for ad hoc promotions on the basis of Special Roster as stated by him, respondents indicates promotion of Shri G.D.Patil was subsequent to R.K.Sabharwal's decision and as admittedly he was senior to the applicant inspite of the applicant's being promoted on ad hoc basis earlier, he was not the junior most, as alleged and, therefore, not reverted.

5. On behalf of Shri G.D.Patil, respondent-3, it is argued by Shri S.P.Inamdar, learned counsel that the applicant should not have shown him as a respondent as the applicant was his junior in the All India Seniority List in Group 'B' and after the arrival of a regular appointee, the junior most person had to be reverted. According to R-3, he was not the junior most person, and, therefore, he could not have been reverted.

6. We have carefully considered the matter. It is seen that the applicant has been reverted two months after his ad hoc promotion as in between somebody regularly appointed in Group 'A' directly and allocated to Maharashtra Circle had arrived to take charge. It is

agreed on all hands that when regular appointment is made to a post, the ad hoc appointee occupying the said post has to give place to him and this has to be in the reverse order of seniority i.e. the junior most person being reverted first. The applicant himself does not dispute that post based reservation is applicable in the case of the regular promotions and that ad hoc promotion was effected only on a purely temporary and local arrangement. Having been the junior most at the relevant time, inspite of getting the benefit of ad hoc promotion earlier on a reservation roster, which had ceased to be of relevance once post based reservation had come to vogue, the applicant had to be reverted. The same is not against any accepted policy of the Govt. The respondents could have taken no other decision in law and no prejudice has been caused to the applicant by this reversion. Respondents' action, therefore, merits endorsement.

7. In view of the above, we are convinced that the applicant has not made out any case for our intervention. The application fails and is accordingly dismissed. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

SIGN
(S.L.JAIN)
MEMBER (J)

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