

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR.

T.A. No. 2231/86  
( CS 994/84 )

Date of Decision : 13.7.1992

Sohan Lal

- Applicant

Mr. J.K. Kaushik

- Counsel for the Applicant.

VERSUS

Union of India & Ors

- Respondents

Mr. G.P. Soral

- Counsel for the Respondents.

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The Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman.

The Hon'ble Mr. B.B. Mahajan, Administrative Member.

Mr. B.B. Mahajan, Administrative Member:


Shri Sohan Lal had been promoted to the post of TXR in the pay scale of Rs. 425-700 on ad-hoc basis on 4.10.78. The applicant has been working on that post continuously since then. On the apprehension of reversion, he filed a civil suit in the Court of Munsif, North Kota in 1984 for permanent injunction. He has been continuing on that post till date in view of the stay order passed by the Civil Court. The suit has been transferred to this Tribunal U/S 29 of the Administrative Tribunals Act, 1985.

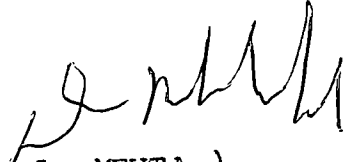
2. We have heard the learned counsel for the parties. The learned counsel for the applicant has stated that the applicant had been promoted after taking a suitability test. The learned counsel for the respondents has, however, pointed out that the post of TXR is a selection post which was to be filled up on the basis of a selection test and that the applicant has not so far passed the selection test. The case is squarely covered by the judgment of the Full Bench of the Tribunal in Jethanand & Others vs. Union of India & Others ( 1989(2) SLJ (CAT) 657 ). The Full Bench had held that the railway employees who were appointed on a class III post on ad-hoc basis had no right to hold that post unless they passed the selection test, but a person

who has been working on ad-hoc basis shall not be reverted unless he is allowed atleast three opportunities to pass the test. The suitability test which the applicant had passed was not a selection test. The Full Bench of the Tribunal subsequently held in Suresh Chand Gautam Vs. Union of India (Full Bench Judgments of CAT Vol. II p.487) that a railway servant who is allowed to officiate in higher post on temporary basis need not always be allowed at least three or more opportunities (as per Jetha Nand's case) to appear <sup>in</sup> the selection test and that he can be reverted if such reversion is warranted for administrative reasons, such as, for appointment of regularly selected qualified candidates.

3. In view of the above, we allow the application partly and direct that the applicant shall not be reverted from the present post until he has been allowed three opportunities to appear in the test except as a measurement of punishment under the Discipline and Appeal Rules or if such reversion becomes absolutely necessary for appointment of regularly selected qualified candidates. The direction of the Tribunal in para 43 of Judgment in Jetha Nand's case supra will also be kept in view by the respondents while dealing with the case.

Parties are to bear the costs.

  
( B.B. MAHAJAN )  
Administrative Member

  
( B.L. MEHTA )  
Vice-Chairman