

CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH,  
JAIPUR.

TA 2248/86

Date of order  
20.4.93

BABU RAM

... Applicant.

Mr. J.K.Kaushik,

... Counsel for the applicant.

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UNION OF INDIA & ORS.

... Respondents.

Mr. R.N. Soral

... Counsel for the respondents.

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CORAM :-

THE HON'BLE MR. JUSTICE D.L.MEHTA, VICE CHAIRMAN

THE HON'BLE MR. B.B.MAHAJAN, ADMINISTRATIVE MEMBER.

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PER THE HON'BLE MR. B.B.MAHAJAN :-

Babu Ram, had filed a suit in the Court of Munsif (North), Kota, against the order of his reversion from the post of Chargeman Grade-A. The suit has been transferred to this Tribunal under Section 29 of the Administrative Tribunal's Act, 1985 and registered as T.A. The applicant belongs to Scheduled Caste category. He was working as Chargeman Grade-B under the respondents. Vide order dated 14.9.81, Annexure-R/2 he was promoted as Chargeman Grade-A on ad hoc basis. This order became effective on 28.9.81. Subsequently by the impugned order dated 2.3.82, Annexure-R/1, he was reverted from the post.

2. We have heard the counsel for the parties. The respondents have taken the plea in the reply that he had been promoted on trial basis for 6 months period and he had been reverted as his work was not found satisfactory during the period. The learned counsel for the applicant has pointed out that the order of promotion dated 14.9.81 Annexure-R/2 now here states that the promotion is on trial basis for the period of 6 months. He has referred to the Railway Boards

instructions dated 31.8.74 published on page 726 in Railway Establishment Law and Practice by J.M. Jind, in which the procedure for promotion of SCs/ STs for a period of 6 months on trial basis has been laid down. He has pointed out that this procedure is applicable only when none of the candidates belonging to SCs/STs are found fit in selection for placing on panel and those who secured the highest mark are earmarked for placement on panel against reserve vacancies and they are promoted on ad hoc basis for 6 months and their performances then watched for a period of 6 months and a decision to include their name in the panel or revert them is taken after obtaining 3 reports at 2 months interval. He submitted that this procedure was in any case not applicable in the present case as the post of Chargeman was a non-selection post and the applicant had been promoted, being the senior most official amongst SCs, on the basis of assessment of his C.Rs. Moreover the order of termination of his services were also issued without waiting for the expiry of 6 months period and getting the third bimonthly report. The learned counsel for the respondents has not been able to show any evidence in support of the contention that the promotion of the applicant had been made in pursuance of these instructions dated 31.8.1974 on 6 months' trial basis. He has referred to the order Annexure-R/1 and submitted that the applicant was not working satisfactorily and in spite of repeated verbal and written warnings, he was not improved. It has also been mentioned in Annexure-R/1 that he is being proceeded for departmental enquiry under discipline and appeal rules and he had also been reported as absconding from duty. He has also referred to the subsequent reports which relate to the unsatisfactory nature of his performance and his leaving the place of duty without permission and without making proper arrangements. The allegation of absconding from duty without leave or permission amounts to misconduct and his reversion on this ground would amount to reduction in rank and provisions of Article 311 will be attracted. He could, therefore, be reverted on this ground only after following the procedure prescribed in the

Discipline & Appeal Rules. The learned counsel for the applicant says that the applicant was again promoted in 1984. In between he was again reverted and subsequently promoted again on regular basis in 1989. The learned counsel for the applicant states that in case the order of reversion is set aside and he is given notional seniority and fixation of pay from the date he was promoted on ad hoc basis, the applicant is willing to forgo the arrears of pay and allowances from the date of reversion viz. 2.3.82 till his promotion on regular basis in 1989.

5. In view of the above and taking into account all the facts and circumstances of the case, we allow this T.A. partly. The order of reversion dated 2.3.82 is set aside. The applicant shall be allowed the benefit of seniority as Chargeman grade-A from the date he was promoted on ad hoc basis viz. 28.9.81 and his pay would also notionally be fixed as if he had worked continuously from 28.9.81 on the post of Chargeman Grade-A but he will not be allowed any arrear of pay and allowances till his regular promotion in 1989. The arrears on account of difference between pay and allowances already paid and those to which he would be entitled on the basis of re-fixation of his pay will be allowed from the date he was promoted on regular basis in 1989. The arrears on this account shall be paid to him within a period of 4 months. The parties to bear their own costs.

  
(B.B. MAHAJAN)  
ADMN. MEMBER

  
(D.L. MENTA)  
VICE CHAIRMAN

Shashi/