

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 29.9.93.

TA 2332/86
(CS 541/85)

CHHATRA PAL JAIN ... APPLICANT.

v/s.

UNION OF INDIA & ANR. ... RESPONDENTS.

CURIA:

HON. MR. GOPAL KRISHNA, MEMBER (J).
HON. MR. O.P. SHARMA, MEMBER (A).

For the Applicant ... SHRI J.K. KAUSHIK.

For the Respondents ... SHRI G.P. SORAL.

PER HON. MR. O.P. SHARMA, MEMBER (A).

Chhatra Pal Jain (hereinafter referred to as the applicant) filed a Civil Suit in the court of learned Munsif (North), Kota, seeking a declaration that the entire proceedings relating to reversion of the applicant from the post of TXR scale Rs.425-700 are null and void and that he may be allowed to continue on the said post on a regular basis, as also for injunction restraining the respondents from reverting him from the said post. The suit was transferred to this Tribunal u/s 29 of the Administrative Tribunals Act, 1985, and has been registered as TA 2332/86.

2. The applicant when working as Fitter Grade-II was given a suitability test for holding the post of TXR, in September, 1978. On being adjudged suitable to hold the said post he was appointed as TXR scale Rs.425-700 by order dated 31.1.1979 on adhoc basis. By a subsequent

order dated 13.7.84 he was posted against a vacant post of TXR. By a later order dated 21.12.84 (Annexure R-4), the applicant was reverted from the post of TXR to that of Fitter Grade-II, the post which he held earlier before his promotion as TXR. The reason given in the reversion order was that candidates selected by the Railway Service Commission, Bombay, were posted to Kota Division on completion of their training and therefore it was necessary to revert the applicant.

3. The learned counsel for the applicant has stated that the applicant was appointed to the post of TXR after a suitability test had been held. By order dated 13.7.84 he had been appointed against a vacant post. The implication of this order and the action was that he was appointed against the said post on regular basis. The respondents were therefore not justified in reverting him to the lower post after he had worked on the post of TXR for a period of about six years.

4. The respondents have stated that an assessment of vacancies in the grade of TXR was carried out on 5.3.83 and it was found that 15 posts of TXR were required to be filled up by recruitment through the Railway Service Commission. The applicant was found holding one of those posts which was to be filled up by recruitment through the Railway Service Commission. The applicant had been appointed purely on adhoc basis and he had no right to continue in the post of TXR. Therefore, when regularly selected candidates through the Railway Service Commission were available, the applicant was reverted.

5. During the arguments, the learned counsel for the respondents stated that the posts of TXRs were to be filled

up on the following basis; 40% through promotion from Fitters Grade-I and Grade-II, 40% through direct recruitment through Railway Service Commission, 20% out of Apprentices/ TXR rankers. The applicant could be considered only for appointment against 40% quota mentioned at No.1 above. However, there were no vacancies in this quota when regularly selected candidates through the Railway Service Commission Bombay became available. Therefore, there was no alternative to reverting the applicant.

6. The applicant was appointed to the post of TXR on the basis of a suitability test for which he was called by the respondents. Subsequently, by order dated 13.7.84 he was appointed against a vacant post. On the date on which order of reversion was passed, he had completed nearly six years' service as TXR. May be he was appointed in excess of the quota for promotees, direct recruitment, Apprentices etc. and that he could not be fitted against a quota for these categories as on the date on which the reversion order was passed. However, when he had already continued for nearly six years' and his performance had not been adjudged unsatisfactory, there was no reason why he should have been reverted from the post held by him for such a long period. If he could not be fitted against the quota for any of the three categories referred to above, he should ~~not~~ be continued on adhoc basis and he should rank junior to the persons appointed regularly against their quota. The learned counsel for the respondents stated during the arguments that subsequently the applicant was continued against other vacant posts. In these circumstances reversion of the applicant from the post of TXR was not justified.

7. In the circumstances of the case, the respondents are directed to continue the applicant on the post of TXR. He may be regularised as and when he is eligible for appointment in a vacancy available in the category in which he is liable to be considered for appointment namely 40% quota for promotions from the post of Fitters Grade-I and Grade-II. Till such time, as he is regularly appointed as above, he shall be continued on the post of TXR. As and when he becomes eligible for appointment against 40% quota reserved for promotions from the post of Fitters Grade-I and Grade-II, in accordance with the prescribed rules and procedure, he may be absorbed against that quota in a regular manner. The reversion order dated 21.12.84 (Annexure R-4) is quashed.

8. The TA is disposed of accordingly, with no order as to costs.


(O.P. SHARMA)
MEMBER (A)


(GOPAL KRIŚNA)
MEMBER (J)