

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

TA 927/86
(CS 799/83)

Date of Decision: 10.5.94

R.K. VERMA ... APPLICANT.

Vs.

UNION OF INDIA & ANR. ... RESPONDENTS

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

For the Applicant ... SHRI RAKESH SHARMA.

For the Respondents ... SHRI V.D. BHARGAVA.

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (J)

Plaintiff R.K. Verma (hereinafter referred to as the applicant) had filed a civil suit in the court of the learned Munsif, Ajmer City (East), Ajmer, against the defendants Union of India and the Divisional Railway Manager, Western Railway, Ajmer (hereinafter referred to as the respondents) for permanent mandatory injunction and for a direction to the respondents to reinstate him in the post of Divisional Commercial Superintendent (for short DCS) scale Rs. 1100-1600 (R) with all benefits as if the impunged order dated 8.12.83 had not been passed. The applicant has further prayed for a direction to the respondents not to revert him from his present post of ACS. He also claimed difference of pay and allowance of the pay due as DCS. The suit was transferred to this Tribunal u/s 29 of the Administrative Tribunals Act, 1985 and registered as TA No. 927/86.

2. We have heard the learned counsel for the parties and have gone through the records of the case carefully.

3. The applicant substantively held the post of Station Master scale Rs. 700-900(R), which is a Class-III post. He was promoted to the post of Assistant Commercial Superintendent on adhoc basis w.e.f. 27.10.75 scale Rs. 650-1200(R), which is a Class-II post in the junior scale. Subsequently the applicant was transferred and

posted to lookafter the senior scale post of DCS BVP vice Shri R.S. Dixit vide an order dated 24.8.81. Thereafter, vide order dated 11.3.82 the applicant was detailed to lookafter the duties of the senior scale post of DCS BVP vice Shri H.J. Nazareth. In terms of the Railway Board's letter dated 25.1.83 a decision was taken that selections for Group-B vacancies in the Transportation (Traffic) and Commercial Department should be conducted separately for the Operating Branch and separately for the Commercial Branch. A notification was issued for selection to the post of AOS, operating Branch/Transportation Department. A written test was held and the applicant appeared in the selection but he failed in the written examination and thereafter he was reverted from the post of DCS to that of ACS (I) vide order dated 8.12.83. The applicant handed over the charge of the post of DCS and joined his duty as ACS (I) at Ajmer. He has superannuated on 30.4.89 from the post of ACS, as stated by the learned counsel for the applicant.

4. The order of reversion is challenged on the ground that the same was issued without affording an opportunity of hearing to the applicant. It is also contended that the impugned order is arbitrary. The other contention of the learned counsel for the applicant is that while functioning in the Commercial side he could not have been compelled to appear for selection for the post in the Operating Branch. It is borne out by the record that the applicant was merely ~~directed~~ to look after the current duties of the post of DCS and he was not promoted to the post on a regular basis. So, there was no necessity of providing an opportunity of hearing to him before making an order for his reversion to the post of ACS. The applicant appeared at the selection test held for the post of AOS of his own accord and now he cannot turn round and say that calling him to appear in the selection for the post of AOS was illegal or improper. The applicant had been appointed even to the post of ACS on adhoc

basis. The substantive post held by him on the date when he was promoted as ACS was that of Station Master, a Group-C post, on the Operating side. Therefore, the applicant, who was holding a substantive post on the Operating side, was asked to appear in a selection test for the post of AOS after the bifurcation of the cadre w.e.f. 25.1.83. Having failed to qualify in the selection for the post of AOS, he had no right to continue in the higher post of DCS, which was in any case held by him only for the purpose of performing the current duties of the post. The applicant was continued on the post of ACS till he attained superannuation on 30.4.89. We, therefore, do not find any irregularity committed in passing the impugned order dated 8.12.83.

6. In view of the discussion made above, the TA fails and it is therefore, dismissed with no order as to costs.

(O.P. SHARMA)
Member (A)

Chikha
(GOPAL KRISHNA)
Member (J)