

(B)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR.

O.A. No. 709/92

Dt. of order: 24.1.1994

Mangal

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr. Virendra Lodha : Counsel for applicant

Mr. Praveen Balwada : Counsel for respondents

CORAM:

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

Hon'ble Mr. O.P. Sharma, Member (Adm.).

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADM.).

Applicant Mangal has filed this application under Sec. 19 of the A.Ts Act, 1985, praying that orders Anxx. A-5 and Anxx. A-6, be quashed. There is a further prayer that if any order dated 29.8.88 has been passed by the respondent No. 3 in regard to reversion of the applicant, it may also be declared as illegal.

2. The case of the applicant is that there was restructuring of cadre in the grade of Electrician and Linemen and by clubbing of the strength of these two posts, <sup>U</sup> pgradation was granted to 20% of the total strength of these posts and <sup>the</sup> upgraded post was declared as Electrician H.S.II. In pursuance of the said order the applicant, a Lineman, was granted promotion vide order dated 29.7.86 (Anxx. A-4). Thereafter, the respondents issued further instructions vide Anxx. A-5 dated 20.6.88 by which they laid down a further detailed procedure regarding upgradation to the post of Electrician H.S.II. Thereafter, further order dated 1.7.88 Anxx. A-6, was passed by which the applicant alongwith 3 others was reverted to the post of Linemen.

3. The applicant is aggrieved by the order of reversion. The counsel for the applicant has claimed that the applicant was promoted to the post of Electrician H.S.II in pursuance of the up-gradation scheme and the reversion

is without giving an opportunity of being heard to him. Although he had actually worked on the said post recovery of pay is being effected which was given to him in the higher post, inspite of the fact that the applicant had worked on the higher post and was entitled for that pay.

4. The operation of the order of reversion and recovery of pay qua the applicant was stayed by the Tribunal vide order dated 20.12.88.

5. The case of the respondents is that while effecting the upgradation in the manner indicated by the applicant, a mistake was committed in implementing the scheme. Electricians had been drawing higher pay than the Linemen before the upgradation scheme was embarked upon. Therefore, in drawing of a combined list of Electricians and Linemen for the upgradation of 20% of the posts, the Electricians earlier in a who were higher pay scale than the Linemen, should have been granted senior post of Electrician H.S.II in the first instance. Instead some Linemen, including the applicant, who were in lower scale of pay prior to the scheme of upgradation coming into force, were also granted upgradation to the post of Electrician H.S.II. It was in order to rectify this anomaly's position, orders Annx.A-5 and Annx.A-6 were passed.

6. We have heard the learned counsel for the parties. Since the Electricians were in higher scale of pay than the Linemen, they were naturally entitled to upgradation to the higher post in the first instance. The respondents were, therefore, not unjustified in re-ordering upgradation. As and when vacancies arise in the upgraded post the Linemen will become eligible for appointment when the number of Electrician, who would rank senior to the Linemen on the basis of there being placed in the higher scale of pay earlier, get appointed to the higher post. Accordingly, we decline to interfere in orders Annx.A-5 & A-6.

If however on the basis of seniority in the combined cadre of Electricians and Linemen the applicant is entitled either to continue on the post of Electrician H.S.II or he is entitled to be promoted to the said post, the respondents may take appropriate action in this regard.

7. As regards recovery of pay in respect of the period of working in the higher post of Electrician H.S.II that would be unjustified. Once the applicant had actually worked on a higher post he cannot be denied the pay of the higher post. He actually started officiating on the higher post by virtue of order dated 29.7.86 (Annex.A-4). Therefore, recovery shall not be effected in respect of the higher pay granted to the applicant from the date he actually started working on the post in pursuance of order dated 29.7.86 till the action taken in lieu of this order to revert the applicant.

8. The O.A. is disposed of accordingly with no order as to costs.

(O.P.Sharma  
Member (A))

Decision in contact  
Annex.A-4

(D.L.Mehta)  
Vice Chairman