

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

(A)

O.A. No. 740/92
T.A. No.

198

DATE OF DECISION 8-10-93.

Lalaram Petitioner

Mr. R.N. Mathur Advocate for the Petitioner(s)

Versus

Union of India & Ors Respondent

Advocate for the Respondent(s)

CORAM :

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

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

(O.P. Sharma)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(O.P. Sharma)
Member (Adm.)

(D.L. Mehta)
Vice Chairman.

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Jaipur
In the Central Administrative Tribunal, ~~Jaipur~~ Bench,
~~Jaipur~~ Jaipur.

Date of Order: 8-10-93.

O.A. No. 740/92.

Lalaram

..Applicant.

Vs.

U.O.I. & others.

..Respondents.

Mr. R.N. Mathur, counsel for applicant.

CORAM:

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

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

Per Hon'ble Mr. Justice D.L. Mehta:

Reverted

Applicant Lalaram's contention is that he was initially appointed as Khalasi on 29.1.79. It was also submitted that in the year 1984, trade test was held and applicant was promoted in Grade II. However, the promotion orders were issued in the year 1988. His contention is that the word "adhoc" has become redundant because he was promoted after declaring successful in test in grade II and for all purposes, his promotion should have been treated as substantial. The second contention is that he completed 18 months and as per Railway Board's Circular, if an employee completes more than 18 months on ad hoc basis, then he should not be reverted. Respondents have not considered this aspect and passed the order of reversion on 17.5.90. Thus, he has challenged the order of reversion Annex. A/1 dated 17.5.90.

2.

Respondents submitted the reply and it was submitted that the applicant was initially appointed as Khalasi on 29.1.79 in Loco Machine Shop and thereafter he was transferred to Loco Erecting Shop on 20.3.79. It was also submitted that on account of mistake, he was allowed to appear ~~in~~ ^{for} the post of Skilled Painter Grade III due to publication of incorrect seniority list and as such on ad hoc basis ~~from 10.9.83~~ in Loco DSL shop w.e.f. 21.7.83. It was stated that he was reverted as Khalasi again on 2.8.83. However, they admit that again the applicant was posted as Skilled Painter Grade III w.e.f. 10.9.83 vide letter No. EW-839/16 of 9.8.83 on purely ad hoc basis with the clear instructions that he will be reverted on availability of a senior person. It was also admitted that the orders were issued on 19.7.88.

Thus, the respondents' case is that from 10.9.83, the applicant was holding the post of Painter Grade III and subsequently he was promoted as Painter Grade II vide order dated 19.7.88. It was submitted that the initial appointments on the post of Grade III Painter as well as subsequent promotion on the post of Grade II Painter was ad hoc.

We have heard the arguments of both the learned counsel.

A person who has worked on the post of Painter from 10.9.83 cannot be reverted on the post of Khalasi in the year 1990 after the completion of about 7 years' period. Admittedly applicant appeared in the trade test passed the examination and he was promoted on the post

of Khalasi in the year 1983 and admittedly, he has Painter worked on the post of Grade III ~~Khalasi~~ from 10.9.83 continuously. If the respondents committed a mistake in allowing the applicant to appear in the trade test, it ~~which~~ was not the fault of the applicant and the doctrine of estoppel will apply particularly in a case where he was promoted as Grade III Painter because of the subsequent passing of the trade test and consequently promoted as a Grade III Painter. There should be an end to adhocism. Once a person, who is appointed on ad hoc basis in 1983 is again promoted on ad hoc basis as Painter Grade II in 1988, naturally the ad hoc promotion comes to an end and the promotion on the post of Painter Grade III, therefore, becomes substantive as soon as he is promoted again on the higher post. Apart from that, ad hoc promotion is a stop gap arrangement and it cannot continue for seven years. Applicant was promoted on 10.9.83 after passing of the test and doctrine of estoppel applies against the respondents as they cannot say that he was allowed on account of mistake in the seniority list, which was committed by the respondents themselves. Even the mistake has not been pointed out. The seniority list has not been challenged and passing of an order ~~and~~ of reversion on this ground is bad. A person who has been promoted, cannot be reverted ~~to~~ on his original post of Khalasi. Selection or promotion as Painter Grade III in 1983 and again promotion as Painter Grade II in 1988 and now to revert the applicant on the post of Khalasi after allowing him to work for 7 years on the post of Painter Grade III and Grade II is not just and proper and order Annex. A/1 is liable to be quashed.

and

In the result, the O.A. is accepted and
the order Annx.A/1 is set aside. Parties to
bear their own costs.


(O.P. Sharma)
Adm. Member


(D.L. Mehta)
Vice Chairman.