

O.A.No. 830/88

Dt. of order: 22.8.1994

Arvind Kumar Uma Shankar

: Applicant

Vs.

Union of India & Ors.

B Respondents

Mr.U.D.Sharma

: Counsel for respondents

None present on behalf of the applicant.

CORAM:


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

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

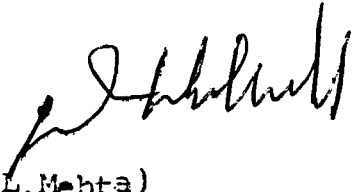
PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the respondents and have perused the record. The applicant has come with a case that he was employed as Coalman on 20.8.1972 in Bandi kui Unit at Idga, Agra. He was asked vide KR message dated 8.7.85 to report at the Jaipur Unit and he complied the order, and joined at Jaipur. His name finds place in the provisional panel dated 16.12.87. The submission of the applicant is that at present he is working as Coalman in pursuance of the order dated 9.5.88. The respondents issued the order dated 11.10.88 (Annx.A5) and revised the panel on the ground that the period which he had spent at Bandikui cannot be included. According to the respondents, the original order was revised on the basis of the Railway Board's order in October 1981. This itself goes to show that the order which the respondents want to ^{rely upon} ~~rely~~ is of the year 1991 and they have committed the mistake in the year 1987 and further they gave promotion or appointment in the year 1988. All these matters require detailed scrutiny. The respondents have violated the principles of natural justice. The learned counsel for the respondents submits that it was a factual error which has been rectified by the respondents. He submits that a mistake can be rectified. A mistake can only be rectified after following the principles of natural justice. A clerical mistake can be rectified but a factual error if any cannot be rectified without giving an opportunity to a person who is adversely affected on account of the rectification of the so called mistake.

2. In the result we accept the O.A and the order dated 11.10.85 (Annx.A5) is set aside. If the respondents choose to take any action, they are at liberty to do so after following the principles of natural justice and the procedure of law. There shall be no order as to costs.



(O.P.Sharma)
Member(A).



(D.L.Mehta)
Vice Chairman.