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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.697/93

Date of order: 21.10.97

1. Lalit Kumar, S/o Shri Bal Krishan Modak, Bharatpur.
2. Shri Ranvir Singh, S/o Shri Hari Singh, Kota.

...Applicants.

Vs.

1. Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. The Divisional Mechanical Engineer, Kota Division, Kota.
3. Shri Nathu Ram (MCF B/S) at present employed as ad hoc SOM under IOW at Bharatpur, W.R.
4. Shri Akhtar Hussain, MCF/Carpenter, at present employed as ad hoc SOM at IOW, Kota.

..Respondents.

Mr. Shiv Kumar, counsel for applicants.

CORAM:

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

Hon'ble Mr.Ratan Prakash, Judicial Member.

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, S/Shri Lalit Kumar and Ranvir Singh have prayed that the order dated 24.11.1993 (Annex.A1) ordering the reversion of the applicants from the post of Sub-Overseer Mistry (SOM) to the Group-D post may be quashed with all consequential benefits.

2. The case of the applicants is that they were initially appointed to Group-D posts in 1976 and 1978 respectively. Both joined in open line in 1984. Applications were invited for certain vacant posts of SOM in Survey and Construction Department. The applicants also applied and they were also allowed to appear in the suitability test. They were empanelled and promoted on the post of SOM. Subsequently, however, they were ordered to be reverted in 1986 on the ground that their

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names had been deleted from the select list because they did not possess the minimum eligibility condition of 3 years' regular, continuous service. The applicants filed O.A Nos.636/92 (Old No.236/86) and 637/92 (Old No.235/86) which were disposed of by orders dated 4.10.1993 (Annxs.A2 & A3). By these orders the Tribunal held the deletion of the names of the applicants from the select panel as valid. However, the respondents were directed to consider continuing the applicants on ad hoc basis on the post of SOM if found suitable and without affecting the rights of those who are in the panel and who may be senior to them. The applicants have now vide order dated 24.11.1993 (Annx.A1) been reverted to their original Group-D posts. The applicants <sup>have</sup> assailed the appointments of respondents Nos.3 & 4 on the post of SOM by the aforesaid order dated 24.11.93 on the ground that since they are holding another post in ~~the~~ substantive capacity they are not entitled to hold the post of SOM. The applicants claim to have been worked satisfactorily on the post of SOM for the last 7 years and claim to be suitable for holding the post as they had cleared the selection as well. No special occasion has arisen to justify the reversion of the applicants to the lower post. They have accordingly prayed that their reversion may be declared illegal and they may be allowed to continue on the post of SOM.

3. The respondents in their reply have stated that when the matter <sup>was</sup> adjudicated by the Tribunal, the Tribunal had held that the applicants have no right to remain on the post of SOM because their names had been rightly deleted from the panel for the post of SOM. However, considering the continuance of service of the applicants on the post of SOM on account of the stay granted by the Tribunal, the Tribunal had directed the official respondents to consider the continuance of the applicants on ad hoc basis on the post of SOM if they were found suitable and

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without affecting the rights of those who are in the panel and who may be senior to them. Therefore, the administration was required to consider whether the continuance of the applicants on the post of SOM affected the rights of senior persons.

Respondents Nos. 3 & 4 were senior to the applicants and their rights were directly affected by the continuance of the applicants on the post of SOM. Therefore, it has become necessary for the administration to promote the seniors and to revert the applicants. The respondents have denied the averment of the applicants that respondents, Nos. 3 & 4 were not entitled to be promoted on the post of SOM as per rules and the existing policy of the Railways.

4. During his oral arguments, the learned counsel for the applicants stated that no occasion had now arisen to order reversion of the applicants, after passing of orders Anxs. A2 and A3 by the Tribunal. He added that the suitability of the applicants for continuing on the post of SOM on ad hoc basis had not been adjudged by the respondents and they had summarily been reverted in spite of the fact that the Tribunal had directed that their suitability should be judged for continuance on the post of SOM on ad hoc basis.

5. We have heard the learned counsel for the applicant and have perused the material on record. None appeared on behalf of the respondents.

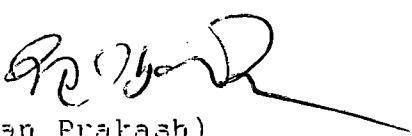
6. We find that the matter has already substantively been adjudicated ~~not~~ on the basis of the earlier O.A Nos. 636/92 and 637/92 filed by the applicants respectively. The Tribunal has already held in these orders that the applicants did not fulfil the requirements of the length of service at the time of selection to the post of SOM and therefore their names had been correctly deleted by the official respondents from the panel for the post of SOM. Thus, the applicants have no rights to be

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promoted to the post of SOM. However, the Tribunal had left it to the department to consider continuing the applicants on the post of SOM on ad hoc basis on the basis of their length of service in the post of SOM if found suitable, without adversely affecting the rights of others who are in the panel and who may be senior to the applicants. No rejoinder has been filed by the applicants disputing the claim of the official respondents that respondents Nos. 3 & 4 are senior to the applicants. The learned counsel for the applicants also ~~stated~~ during his arguments that they were <sup>the</sup> empanelled candidates. In these circumstances if the respondents have reverted the applicants to the lower post, held by the applicants earlier before their promotion to the post of SOM, we cannot interfere with the action of the respondents. The orders Anxes. A2 & A3 of the Tribunal confer no right on the applicants to continue on the post of SOM even on ad hoc basis. After reverting the applicants, the respondents have promoted respondents Nos. 3 & 4 to the post of SOM who were senior to the applicants and who were empanelled candidates. In these circumstances, we find no infirmity in the action taken by the respondents.

7. The O.A is dismissed. No order as to costs.



(Ratan Prakash)

Judicial Member.



(O.P. Sharma)

Administrative Member.