

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No. 209/83 : Date of order 13.4.94

Manjit Singh : Applicant

V/s

Union of India & Others : Respondents

Mr. S.K. Jain : Counsel for the applicant

None : For the respondents

CORAM

Hon'ble Mr. Gopal Krishna, Member (J)

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

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

Shri Manjit Singh has filed this application u/s 19 of the Administrative Tribunals Act, 1985, wherein he has prayed that the order dated 2.4.93 (Annexure A-1) by which the applicant was transferred to the post of Lubrication Attendant in Millwright shop in scale Rs. 950-1500/- may be quashed. He has also prayed that the respondents should be directed not to transfer the applicant anywhere else and to allow him to continue to work in the scale Rs. 1200-1800/- as Material Collector Grade II, as if order Annexure A-1 had never been passed.

2. The applicant's case is that while he was working as Khalasi in the Ajmer Division, he was appointed to the post of Lubrication Attendant in the scale Rs. 210-290 vide order dated 6.6.86 (Annexure A-2). Thereafter vide Annexure A-3 dated 14.7.88 the Department decided that the post of T & C Smith (Off) would be the avenue of promotion from the post of Lubrication Attendant. Thereafter vide order dated 12.7.89 Annexure A-4, the applicant was declared as having passed the trade test for the post of T & C Smith Grade III. Vide Annexure A-5 dated 19.7.89, the applicant was appointed to the post of T & C Smith Grade III scale Rs. 950-1500/- . This appointment was stated to be provisional till the decision by the Hon'ble Supreme Court and the Central Administrative Tribunal, Jodhpur Bench. Later, vide order dated 21.1.90 Annexure A-6, the applicant was declared as having passed the trade test for the post of Material Collector Grade

Grade II. By order dated 24.1.90 Annexure A-7, the applicant was promoted to the post of Material Collector Grade II scale Rs. 1200-1800. This order was also stated to be provisional till the decision by the Hon'ble Supreme Court and the Jodhpur Bench of Central Administrative Tribunal. Seniority list of T & C Smith Grade III Annexure A-8 shows that the applicant's name is at serial no. 8. Seniority list Annexure A-9 of Material Collector Grade ^{II} shows the applicant's name at serial no. 1. In this list at Annexure A-9, the applicant alone figures. The applicant's case is that he has been officiating on the post of Material Collector Grade II since January, 1990 and all of a sudden now he has been reverted to the post of Lubrication Attendant which is lower than even that of T & C Smith Grade III to which he had been appointed in July, 1989. It is not because of any adverse decision of the Hon'ble Supreme Court or the Tribunal that he has been reverted. He had passed the trade tests for both the posts and his name has figured in the seniority list for both the posts. Therefore, there is no justification for his reversion to a much lower post now.

3. The respondents in their reply have stated that from the post of Lubrication Attendant, avenue of promotion was to the post of T & C Smith and not to the post of Tubeman. A meeting was fixed with the Union regarding the avenue of promotion to be provided to incumbents to the post of Lubrication Attendant. However no agreement in this regard was ~~not~~ reached with the Unions. They have added that the post of Material Collector Grade II is an Ex-Cadre post. According to them, the applicant was promoted to the post of Material Collector Grade II with the condition that his ~~lien~~ would remain in the post of T & C Smith Grade III. They have also added that his work was reported to have been not satisfactory. The applicant was given promotions one after the other on the basis of the alleged "AVC" decision under wrong assumptions.

4. None is present on behalf of the respondents. We have heard the learned counsel for the applicant and have gone through the records.

5. The applicant was successively promoted to the posts of T & C Smith Grade III and Material Collector Grade II after he had passed the trade tests. His name figured in the seniority lists of both the posts. On the date of his reversion from the post of Material Collector Grade II, he had already officiated on the said post for a period of about three years. His reversion is not on the ground that there is any decision of the Hon'ble Supreme Court or the Tribunal which adversely affects him. The point that the avenue of promotion was not to the post of Tube-man is irrelevant. The respondents in their reply have stated that the applicant's work presumably in the post of Material Collector Grade II, was not satisfactory. But this is not on the ground on which he has been reverted. He seems to have been reverted on the ground that he was given promotions in a wrong channel in which it should not have to be given to him. This was a matter in which the decision should have decided at the relevant time when the applicant was put to successive trade tests, which he has passed, and was granted promotions and was also placed in the seniority lists. Once he had already been granted promotions on the basis of his passing the trade tests and figuring in the respective seniority lists, a decision to revert him would appear to be totally arbitrary and against the principles of natural justice. A reference ^{was} made in the reply of the respondents that agreement had not been reached with the Unions regarding the channels of promotions to be provided to the post of Lubrication Attendant. However an incumbent who has been holding a particular post after having passed the trade test and who figures in the seniority list cannot be reverted to a lower post merely on the ground that agreement with the Unions could not be reached regarding the channel of promotion.

In the circumstances, we do not find justification for passing the order dated 2.4.93 Annexure A-1. Accordingly we quash Annexure A-1 to the extent it pertains to the applicant.

6. In the result the OA is allowed with no order as to costs.

(O.P. SHARMA)
Member (A)

Gopal Krishna
(GOPAL KRISHNA)
Member (J)