

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 14.02.02

OA No.17/2000

1. Upendra Singh s/o Shri Parmatma Anand Singh r/o Railway Quarter No.L-38, Staff Line, Beawar Road, Ajmer, now-a-days working on the post of Senior Section Engineer, Loco Shop, Western Railway, Ajmer.
2. S.K.Jain s/o Shri Trilok Chand Jain r/o Adarsh Nagar, Ajmer, now-a-days working as Senior Section Engineer, Loco Shop, W.R. Ajmer.

.. Applicants

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Deputy Chief Mechanical Engineer, Loco Shop, Western Railway, Ajmer.

.. Respondents

Mr.S.K.Jain - counsel for the applicants

Mr. S.S.Hasan - counsel for the respondents

CCRAM:

Hon'ble Mr. H.O.Gupta, Member (Administrative)

Hon'ble Mr. M.L.Chauhan, Member (Judicial)

C R D E R

Per Hon'ble Mr. H.O.Gupta, Member (Administrative)

The applicants are aggrieved of the order dated 8.1.2000 (Ann.A1) whereby they have been reverted from the post of Senior Section Engineer carrying a pay scale of Rs. 7450-11500 to the post of Section Engineer carrying a pay scale of Rs. 6500-10500. In relief, they have prayed for quashing the said order.

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2. The case of the applicants as made out, in brief, is that:-

2.1 The applicant No.1 was appointed as Chargeman Grade-B on 13.9.84. Thereafter, he was promoted as Chargeman Grade-A on 26.4.85 and as Section Engineer on 15.1.91. He was further promoted to the post of Senior Section Engineer on ad-hoc basis on 5.12.94 and thereafter regularised on the said post vide order dated 1.2.95 (Ann.A4).

2.2 The applicant No.2 was appointed as Chargeman Grade-B on 27.2.85. Thereafter he was promoted as Chargeman Grade-A on 31.3.86 and promoted to the post of Section Engineer on 7.10.91. He was further promoted to the post of Senior Section Engineer on ad-hoc basis on 22.5.95 and on regular basis vide order dated 8.8.95 (Ann.A5). Both the applicants were reverted to the post of Section Engineer vide the impugned order.

3. The main grounds taken by the applicants are as under:-

3.1 The procedure envisaged in Railway Board Circular dated 21.4.89, by declaring the employees surplus on construction of the cadre, has not been followed.

3.2 No attempt has been made by the respondents to adjust the applicants against vacancies in other Departments as provided in the circular dated 29.9.99.

3.3 Much junior persons to the applicants have been promoted to the post of Senior Section Engineer in other units whereas the applicants have been reverted.

3.4 There is no actual reduction of cadre as yet.

It is only a proposed plan.

4. The respondents have contested this application. Brief stated, they have submitted that:-

4.1 The supervisory staff is appointed on the basis of number of artisan staff. For every 18 artisan staff, there has to be one supervisor. In Machine Shop total artisan staff strength was 131 and therefore, total 8 supervisory staff were required as against the strength of 21. The total strength of the cadre of Senior Section Engineer cadre, after redistribution, is only 4 instead of earlier strength of 7.

4.2 The applicants were reverted to their lower post in the pay scale of Rs. 6500-10500 in the Machine Shop as per the vetted strength by the Accounts Department.

4.3 It is not a case of surplus since no post of Supervisory cadre has been surrendered due to closure of steam activity. Thus, the staff in question cannot be reckoned as surplus.

4.4 The avenue of promotion/seniority group in various shops are different and hence the staff of the Machine Shop cannot be sent to other seniority groups as per avenue of promotion. As such the contention of the applicants that junior persons have been given promotion on the post of Senior Section Engineer is not correct. Since the applicants were juniormost in their particular cadre, they have been reverted due to re-determination of the cadre strength.

5. The applicants have filed rejoinder and have

rebutted the various contentions of the respondents.

6. Based on the interim prayer of the applicants, the respondent No.2 was directed not to implement the impugned order dated 8.1.2000 (Ann. Al) till next date. The interim order continued till the final disposal of the case.

7. Heard the learned counsel for the parties and perused the record.

7.1 It is an admitted fact that the applicants were promoted to the post of Senior Section Engineer on regular basis. It is also an admitted fact that the applicants were reverted from the post of Senior Section Engineer carrying a pay scale of Rs. 7450-11500 to the post of Section Engineer carrying a pay scale of Rs. 6500-10500. The reason given by the respondents for reversion is because of the reduction in the re-determined cadre strength of the Senior Section Engineer. During the course of arguments, the learned counsel for the applicants conceded that the respondents are at liberty to determine number of posts in a cadre as per their requirement. He, however, submitted that the respondents have no legal right to revert the applicants on the ground that the strength has been reduced. He further submitted that the respondents have not shown any rule whereby they are authorised to revert the applicants. In fact, there is no such rule. He also submitted that as per Railway Board instructions, an employee is required to be declared surplus and thereafter required to be adjusted in an equivalent post even if identifical posts are not

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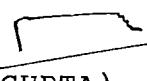
available in other units. He further submitted that identical posts are admittedly available in other units. He also submitted that as per Para 123 of the Indian Railway Code, if the number of staff is in excess of the normal strength fixed, the vacancies arising amongst such staff should not be filled until the strength fixed for the workshop is reached. The action of the respondents to revert the applicants to a lower post on the ground that the number of posts have been reduced is illegal.

7.2 We agree with the contention of the learned counsel for the applicants. The respondents have not produced any rule/instructions whereby a regular employee can be reverted to a lower post/grade on reduction in cadre strength. The note below Para 123 of the Indian Railway Code for mechanical department annexed by the applicants envisages adjustment of such excess staff <sup>future</sup> against ~~further~~ vacancies.

7.2 In view of above discussions, the OA is allowed. The impugned order dated 8.1.2000 (Ann. Al) is quashed. The applicants shall continue to function as Senior Section Engineer in the pay scale of Rs. 7450-11500 till they vacate the post of Senior Section Engineer. No order as to costs.

  
(M.L.CHAUHAN)

Member (J)

  
(H.O.GUPTA)

Member (A)