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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

RA No. 9/96 (OA No. 157/95)

Date of order: 7-3-1996

Babulal

.. Applicant

Versus

Bishan Lal and others

.. Respondents

ORDER

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

This Review Application has been filed by Shri Babulal seeking review of the order dated 4-1-1996 passed by this Tribunal in OA No. 157/95, Bishan Lal Vs Union of India and other, in which Shri Babulal was private respondent No.5 and Shri Fazluddin was respondent No.4. Various grounds have been urged in the Review Application to seek review of the Tribunal's order dated 4-1-1996 and dismissal of the OA No.157/95 which was allowed by the said order.

2. At this stage, it would be useful to reproduce paras 17 and 18 of the Tribunal's order dated 4-1-1996 which contain the essential facts of the case and the findings of the Tribunal:

" 17. The factual position that emerges in this case is that initially the applicant and both the private respondents were appointed in TPP. The applicant and the respondent No.4 have continued to function in TPP all throughout. However, on being declared surplus in TPP for certain reasons and being reverted from the post of Compositor to the lower post, respondent No.5 was sent to RPP, where, on passing the trade test, he was promoted as Compositor Gr.III w.e.f. 7.7.88. The case of respondent No.5 is that if he had been given his correct post and scale on the basis of reclassification of posts from 1979 then there would have been no question of his being declared surplus and being reverted and therefore, he would not have been required to go to RPP. Maybe some injustice was

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done to respondent No.5 in the manner stated by him. However, the position now is that he was taken up in RPP as Compositor Gr.III in July 1988 and thereafter he even earned promotion as Compositor Gr.II w.e.f. 30.6.93 in scale Rs. 1200-1800 in RPP. Of course, respondent No.5 was not satisfied with his continuance in RPP and continued to make representations for being brought back to TPP as Compositor Gr.III, on the post on which he originally held there before being sent to RPP. However, fact also remains that he now belongs to the seniority unit of RPP where he had even earned promotion to a post higher than the one for which he was initially appointed there. If he was wrongly declared surplus and thereafter sent to RPP, he should have challenged this action before a legal forum at the relevant time. Now at this stage his absorption in RPP is an undisputed fact. It has not been denied by any of the respondents that transfer from one printing press to another is not permissible under the Rules. If any injustice was done to respondent No.5 earlier in 1979 or thereabout he should have sought a legal remedy against that at that point of time. Injustice may have been done to respondent No.5 earlier but in our view injustice has also been done to the applicant now by passing order Annx.A1. We have to see on whose side law is at the present time when order Annx.A1 has been passed. As far as the applicant is concerned, he has been reverted to a lower post on the ground that two other persons now sought to be absorbed on the post of Compositor Gr.III would be senior to him. Respondent No.5 cannot be brought back from RPP to TPP under the Rules and therefore his fitment in the post of Compositor Gr.III in the TPP and applicant's reversion on that ground would not be according to law and therefore not valid.

12. As regards respondent No.4, he was also holding the post of Compositor earlier in TPP but was reverted and declared surplus but was absorbed on the post of Proof Reader in the same press (TPP) on his passing trade test for Proof Reader. He has since continued on the said post which carries the same scale of pay which is available to Compositor Grade-III. He also did not challenge his being declared surplus etc.

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at the relevant time. There is no provision for change from one seniority unit to another, even in the same press. Since he was in a different seniority unit though in TPP, his being brought back to the seniority unit of Compositor Gr. III, is not in accordance with the rules. Therefore, the applicant's reversion from the post of Compositor Gr. III in order to absorb respondent No. 4 in the said post is not valid. However, it was stated before us during the arguments that two posts of Compositor Gr. III are available now in TPP and besides the applicant respondent No. 4 can also be accommodated against one of these posts. Since respondent No. 4 remained throughout in TPP, we are of the view that if additional post of Compositor Gr. III is available in TPP, respondent No. 4 may be fitted against that post without causing any prejudice to any of the rights of the applicant accruing to him by virtue of his holding the post of Compositor Grade-III in TPP."

3. The main grounds urged for seeking review of the Tribunal's order dated 4-1-1996 are that the impugned order, Annex-A1 dated 21-3-1995 had already become effective on 23-3-1995 when the review applicant Shri Babulal had resumed duty in the Ticket Printing Press, Ajmer. This fact was not brought to the notice of the Tribunal by the applicant in the OA. Shri Babulal, the review applicant, had been trade tested for the post of Compositor Gr. II and not for Gr. III as alleged in the OA. The Tribunal is not an appellate authority which can substitute its own judgement for that of the departmental authority but has only to ensure that the principle of natural justice has been complied with by the competent authority while taking decision. Shri Babulal who was respondent No. 5 in the OA has a better claim for the post than the applicant in the OA Shri Bishah Lal. There had been strict compliance with principles of natural justice before reverting the applicant. There is also inconsistency in the order of the Tribunal inasmuch as part of it goes against its own conclusion in so far as the findings and the directions with regard to respondent No. 4 in the OA Shri Fazluddin are concerned. The General Managers have

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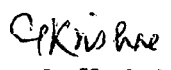
full powers to make rules with regard to railway servants in Group-C and Group-D under their control. Therefore, the General Manager being the rule making authority was competent to take a decision with regard to transfers from one cadre to another in the interest of administration. In conclusion, it has been stated that the order of the Tribunal is based on misappreciation of facts.

4. We have gone through the order dated 4-1-1996 passed by the Tribunal in the OA and have also gone through the reasons and the grounds urged in this review application for seeking recall of the order of the Tribunal. We find that the entire factual position of the case was considered by the Tribunal before passing the order dated 4-1-1996 of which recall has been sought. The learned counsel for Shri Babulal who had filed this review application and who was respondent No.5 in the OA was present during the hearings and he had full opportunity to argue his case. The order of the Tribunal was passed on an appreciation of the facts of the case. None of the grounds urged by the review applicant are such justify the recall and review of the order passed in the OA because the scope of review is extremely limited as set-out in order XLVII Rule 1 of the Code of Civil Procedure.

5. We are, therefore, of the view that this review application is not maintainable. It is accordingly dismissed in limine.

By circulation.


(O.P. Sharma)
Administrative Member


(Gopal Krishna)
Vice-Chairman