

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 11.8.95.

OA No.310/95

Kamlesh Kumar s/o Shri Bharose Lal, Jr. Shop Supdt., Erecting Shop Loco Workshop, Ajmer.

...APPLICANT.

VERSUS

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Chief Works Manager, Western Railway, Loco Workshop, Ajmer.
3. Dy. Chief Mechanical Engineer, Western Railway, Loco Workshop, Ajmer.
4. Shri Bharat Singh Meena, Jr. Shop Supdt., Erecting Shop Loco Workshop, Western Railway, Ajmer.

... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

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

For the Applicant ... Shri Jas Raj

For the Respondents ... _____

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Kamlesh Kumar, has filed this application u/s 19 of the Administrative Tribunals Act, 1985 (for short the Act), assailing the order of reversion at Annexure A-1 dated 6.6.95, by which he was reverted from the post of Junior Shop Supdt. scale Rs.2000-3200 to that of Chargeman 'A' scale Rs.1600-2660.

2. We have heard the learned counsel for the applicant and have carefully perused the records.

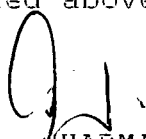
3. The applicant's case is that he was promoted against a non-fortitious vacancy as Chargeman 'A' scale Rs.1600-2660 and he was further promoted as Junior Shop Supdt. scale Rs.2000-3200 on ad hoc basis vide Annexure A-5 dated 2.3.95 against a vacant post on the basis of his seniority. Thereafter, selection was held for the aforesaid post and the applicant qualified the written as well as the viva-voce test for the post of Junior Shop Supdt. and his name had appeared at Sl.No.2 in the panel (Annexure A-10).


However, he was reverted to the post of Chargeman 'A' vide the

6

impugned order dated 6.6.95 to make room for Shri Chandra Mohan Pathak, who had come back to the department. The applicant has admittedly not exhausted the statutory remedy of appeal before approaching this Tribunal, as envisaged by Rule 18 (v) (b) of the Railway Servants (Discipline & Appeal) Rules, 1968. The learned counsel for the applicant urged that since the applicant had cleared the selection process and before passing the impugned order no opportunity of hearing was afforded to him, the order of reversion is bad and it was not necessary under the circumstances for the applicant to avail of the remedy of appeal before presenting this application in this Tribunal. The learned counsel for the applicant has placed reliance on 1986 (3) SLJ (CAT) 338, A. Marimuthu v. Collector of Customs and Excise Madurai, and (1987) 3 ATC 868, A.N. Ramakrishnan Nair v. Divisional Engineer, Telegraphs, Kottayam and others, in support of his plea that under the circumstances he was under no obligation to prefer an appeal to the appellate authority before invoking the jurisdiction of the Tribunal since Shri Bharat Singh Meena, respondent No.4, who had not even qualified the selection, is continuing on ad hoc basis in the said post. The order of reversion was issued on 6.6.95. There was enough time for the applicant to make an appeal before coming to the Tribunal. Whether an application u/s 19 of the Act should be entertained without any insistence on the applicant to exhaust the remedies available under the service rules is a matter to be considered on the facts of the case? We do not find any extra-ordinary circumstances justifying dispensing with the requirements contained in Section 20 of the Act. We, therefore, hold that the present application is premature.

4. However, if the applicant files an appeal to the appellate authority within a period of 15 days from the date of this order, the same shall be entertained by the appellate authority and decided on merits through a speaking order within a period of two months of the date of receipt thereof. Subject to the directions stated above, this application is dismissed as being premature.


(O.P. SHARMA)
MEMBER (A)


(GOPAL KRISHNA)
VICE CHAIRMAN

VK