

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.348/95

Date of order: 15/14/99

1. Nian Singh, S/o Shri Ganesh Singhji, C/o Ratan Singh, Hotelwala, Top Dadahra, Ajmer, presently employed on the post of Welder under Bridge Inspector, Ajmer Divn, Ajmer.

...Applicant.

Vs.

1. The Union of India through General Manager, W.Rly, Churchgate, Mumbai.

2. Divisional Railway Manager(E), W.Rly, Ajmer Divn, Ajmer.

3. Divisional Personnel Officer, Western Railway, Ajmer Division, Ajmer

4. Chief Bridge Inspector, Western Railway, Ajmer.

...Respondents.

Mr. Shiv Kumar - Counsel for applicant.

Mr. S.S. Hasan - Counsel for respondents.

CORAM:

Hon'ble Mr. S.K. Agarwal, Judicial Member

Hon'ble Mr. N.P. Nawani, Administrative Member.

PER HON'BLE MR. S.K. AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash the impugned order of reversion dated 3.5.95 from the post of Welder to the post of Khallasi and to direct the respondents to grant all consequential benefits including seniority.

2. In brief the facts of the case as stated by the applicant are that he was initially appointed as Gangman on 29.3.76. It is stated that a notification dated 11.7.89 was issued for selection on the post of Welder against 25% of rankers quota. The applicant also participated in the selection and he was selected for the post of Welder in the pay scale of Rs.950-1500 vide letter dated 10.12.90. The applicant completed theoretical and practical training and he was posted vide order dated 10.2.92 but all of a sudden respondent No.3 issued a letter dated 3.5.95 mentioning that the applicant was not eligible to participate in the selection as per notification dated 11.7.89, therefore, he was reverted and posted as Khallasi under respondent No.4. It is stated that the applicant was fully eligible for the post of Welder as per notification dated 11.7.89, therefore, the reversion of the applicant after 4 years is illegal and arbitrary and not sustainable in law. It is further stated that the applicant after selection completed the training successfully and thereafter he rendered 3 years continuous service on the post of Welder, therefore, it is not proper to revert the applicant without any basis. No show cause notice was given to the applicant before reverting him on the post of Khallasi, therefore, the order of reversion is in violation of Article 14 of the Constitution of India. Therefore, the applicant files



this O.A for the relief as mentioned above.

3. Reply was filed. It is stated in the reply that the applicant appeared in selection for the post of Welder under 25% rankers quota but name of Shri Kishan Chena Ram was included in the panel vide order dated 20.5.90 but subsequently name of the applicant was substituted vide order dated 10.7.90. It is stated that the Trade Unions raised objections and the case was examined, consequently vide order dated 23.9.93, name of Shri Kishan Chena Ram was substituted in place of the applicant. It is stated that the applicant was allowed to continue on the post of Welder Gr.III purely on ad hoc basis, therefore, the applicant has no right to continue permanently on the post. The applicant did not challenge the order dated 22.9.93 and he joined on the reverted post in pursuance of order dated 3.5.95 on 2.8.95, therefore, the applicant has no case.

4. Heard the learned counsel for the parties and also perused the whole record.

5. It is an admitted fact that the applicant appeared in the selection process for the post of Welder in pursuance of notification dated 11.7.89 and he was declared successful. Name of Shri Kishan Chena Ram was included in the panel vide order dated 20.5.90. Subsequently name of the applicant was substituted vide order dated 10.7.90. Later on name of Shri Kishan Chena Ram was substituted in place of the applicant vide order dated 22.9.93 when the Unions raised objections and the applicant was reverted on the post of Khallasi vide order dated 3.5.95.

6. It is also an admitted fact that the applicant was sent for theoretical and practical training for the post of Welder and after completion of training the applicant was posted and he worked for more than 3 years on the post of Welder. But all of a sudden the applicant was reverted from the post of Welder to Khallasi vide order dated 3.5.95. It is also an undisputed fact that no show cause notice was given to the applicant before issuance of the impugned order.

7. In Laxmichand Vs. UOI & Ors, (1998) 37 ATC 599, the applicant was promoted as Assistant Storekeeper, subsequently he was reverted on the ground that he had been promoted by mistake. It was held that the order involve civil consequences and such order cannot be passed without complying with the principles of *audi alteram partem* - parties should be given an opportunity to meet his case before an adverse decision is taken.

8. In Vijay Bahadur Vs. UOI, 1998(37) ATC 526, the applicant was promoted vide order dated 10.4.97 and the applicant acted upon. Held - charge having been taken by the applicant, the applicant cannot be reverted without following the principles of natural justice.

9. In Dhirender Kumar Dass Vs. UOI & Ors, SLJ 1997(3) 204 (CAT Guhati) it was held that the applicant who was promoted in the year 1991 but after 9 months he was reverted vide order dated 27.1.92 without enquiry. Held

the reversion was in violation of Article 411(2) of the Constitution of India.

10. In the instant case the applicant worked after completion of training on the post of Welder for more than 3 years but he was reverted by the impugned order dated 3.5.95 without following the principles of audi alteram partam. We are, therefore of the considered opinion that the impugned order of reversion has been issued without following the principles of natural justice. Therefore, not sustainable in law.

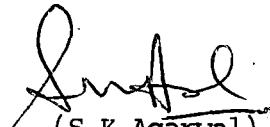
11. We, therefore, allow this O.A and quash the impugned order of reversion dated 3.5.95. This order does not preclude the departmental authorities to proceed against the applicant further and pass proper order after giving showcause notice/opportunity of hearing to the applicant.

12. No order as to costs.



(N.P.Nawani)

Member (A).



(S.K.Agarwal)

Member (J).