

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 17.8.2001

OA 349/95

Chhitar Mal, Ballast Checker (ECR) under Senior Divisional Engineer, Western Railway, Jaipur.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager (E), Western Railway, Jaipur Division, Jaipur.
3. Sr.Divisional Engineer, Western Railway, Jaipur Division, Jaipur.

... Respondents

CORAM:

HON'BLE MR.JUSTICE B.S. PAIKOTE, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.Shiv Kumar

For the Respondents ... Mr.S.S.Hasan

O R D E R

PER HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, applicant Chhitar Mal has prayed for quashing the impugned order dated 3.6.7.95 (Ann.A.1) with all consequential benefits and further for a direction to the respondents to regularise the applicant on the post of ECR and to treat his promotion as regular.

2. Applicant's case is that he was initially appointed on the post of Gangman in Western Railway on 21.3.77. Thereafter, he was promoted to the post of Senior Gangman and subsequently he was promoted to the post of ECR vide

Gopal Singh

respondents' letter dated 20.9.89 (Ann.A/2), on ad hoc basis. The respondent department on 11.5.94 ordered reversion of the applicant from the post of ECR to the post of Senior Gangman. Feeling aggrieved, the applicant had earlier approached this Tribunal vide OA 419/94 and the said OA was dismissed as premature vide order dated 24.5.95. The applicant was however given liberty to file an appeal against reversion and the respondents were directed to pass a speaking order on that appeal. The respondent department again issued orders of reversion of the applicant vide Ann.A/1. It is the case of the applicant that no regular selection has been conducted for the ECR post and he has been reverted from that post without assigning any reason and without giving him any show-cause notice. Hence this application.

3. In the counter it has been stated by the respondents that in compliance of Tribunal's order dated 24.5.95, passed in OA 419/94, the applicant had submitted an appeal to the respondents and the same was dismissed on 26.6.95 by a speaking order. It has also been pointed out by the respondents that the applicant avoided receipt of respondents' letter dated 26.6.95 rejecting appeal of the applicant. The respondent department has also enclosed the postal cover returned by the Postal Department, unaccepted by the applicant. It has also been pointed out by the respondents that the applicant has not approached the Tribunal with clean hands. He has suppressed the fact that his appeal has been dismissed by the respondent department. Further, the applicant has filed this OA in the name of Chhitar Mal s/o Shri Ram Sahai, whereas his father's name is Shri Bheru Bux. It has also been pointed out that the applicant had appeared in the test for promotion to the post

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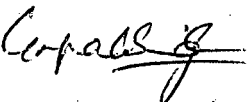
of Junior Clerk but failed therein and accordingly he was reverted. It has, therefore, been averred by the respondents that this OA is devoid of any merit and deserves dismissal.


4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. While rejecting the appeal filed by the applicant, in compliance to this Tribunal's order dated 24.5.95 in OA 419/94, the department pointed out that the applicant was promoted as BCR/Junior Clerk purely on ad hoc basis^a on work charge post and further, that the post of BCR/Junior Clerk is a selection post and is required to be filled up by a duly selected person. Since name of the applicant did not appear on the approved panel, he was reverted. It is also seen that the applicant, vide respondents' order dated 20.9.89 (Ann.A/2), was appointed on ad hoc basis in the vacancy caused by one Shri Ram Kishore and it was very clearly mentioned in the letter that on the availability of regularly promoted candidate the applicant would be reverted and further, the applicant will not have any claim for regular promotion. It is very clear from the above that the applicant was appointed on ad hoc basis purely as a stop gap arrangement. It is different that his ad hoc appointment has continued for a long time. In any case, continuance on any post on ad hoc basis does not give any right to an employee for regularisation on that post. It is also a fact that the applicant was appointed on ad hoc basis as BCR/Junior Clerk against a work charge post and further, the applicant has not qualified the test held for promotion to the post of BCR/Junior Clerk. In these circumstances, we do not find any merit in this application and the same deserves to be dismissed.

(Signature)

6. The OA is accordingly dismissed with no order as to costs.


(GOPAL SINGH)
MEMBER (A)


(B.S. RIKOTE)
VICE CHAIRMAN