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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA 386/95 : Date of order 29.8.95

Madan Lal Meena s/o Shri Ganpat Ram resident of Ward no. 10/963, Meena Colony, Ramganj Colony, Ajmer at present employed on the post of Train Conductor(TNCR) in the Office of the C.T.I.(A) Ajmer, Western Railway.

... Applicant

VERSUS

1. The Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. The Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.

... Respondents.

CO RAM

Hon'ble Mr. O.P. Sharma, Member (Administrative)
Hon'ble Mr. Rattan Prakash, Member (Judicial)

For the Applicant ... Mr. J.K. Kaushik.
For the Respondents ... ---

O R D E R

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

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri Madan Lal Meena has prayed that order dated 26.7.95 (Annexure A-1) ordering the applicant's reversion from the post of Train Conductor (TNCR) to the post of Head TTE may be quashed with all consequential benefits.

2. The applicant's case is that he was granted promotion to the post of Head TTE, scale Rs. 1600-2660, vide order dated 1.12.94 (Annexure A-5). Promotion was granted on ad hoc basis. This was for the reason that a criminal case against the applicant was pending. The Railway Board's circular dated 21.1.93 (Annexure A-7) provides that ad hoc promotion may be granted where promotion has been denied on the ground of pending disciplinary/criminal proceedings and such proceedings have continued for a period of more than two years. It

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was under this provision that ad hoc promotion was granted to the applicant. However, by order dated 26.7.95 (Annexure A-1), the applicant had been ordered to be reverted to the lower post of Head TTE from which he was promoted in the first instance, on the ground that the Trade Union had brought to the notice of the authority that a criminal case is pending against the applicant. The applicant's grievance is that promotion was specifically granted after taking into account the fact that the criminal proceeding had not yet been finalised, although two years had passed since the institution of such proceedings. Therefore, reverting the applicant to the lower post and that too at the instance of the Trade Union is wholly unjustified.

3. We have heard the learned counsel for the applicant and have perused material on record. Notwithstanding the position mentioned in the application, Rule 18 (V)(b) of the Railway Servants (Discipline & Appeal) Rules, 1968, provides that an appeal can be preferred against an order reverting a railway servant officiating in a higher grade/post to a lower grade/post even otherwise than as a penalty. In the instant case, the applicant has been reverted to the lower post otherwise as a measure of penalty for the reasons stated in Annexure A-1 dated 26.7.95. The applicant must, therefore, exhaust the remedy provided under the Rules. We, therefore, dismiss the present application at the admission stage, being pre-mature. The applicant shall be at liberty to file a fresh application, if he is aggrieved by any subsequent order passed by the authorities in this regard.


(RATTAN PRAKASH)
MEMBER (J)


(O.P. SHARMA)
MEMBER (A)