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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 30.1.97

OA 484/96

Sohan Lal G., Diesel Assistant Driver, Western Railway, Kota Division under CTFO (R), Kota.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Senior DEE (TFO), Western Railway, Kota Division, Kota.
4. CTFO (R), Western Railway, Kota Division, Kota.

... Respondents

CORAM:

HON'BLE MR.GOPAL PRISHIA, VICE CHAIRMAN

HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.S.C.Sethi

For the Respondents

... Mr.M.Rafiq

O R D E R

PER HON'BLE MR.GOPAL PRISHIA, VICE CHAIRMAN

Applicant, Sohan Lal G., in this application under Section 19 of the Administrative Tribunals Act, 1985, has challenged the order dated 2.1.95, at Ann.A-1, by which he was posted from the post of Fireman scale Rs.950-1500 to that of Boxboy/Callboy in the scale of Rs.775-1025.

2. The contention of the applicant is that he was appointed as HAC in the Mechanical Department, Loco Shed, on 2.4.69. He was subsequently confirmed as a Cleaner. He was promoted as Fireman Grade-C. He earned promotion as Fireman Grade-II and thereafter promoted as First Fireman scale Rs.950-1500 (PP). As a result of abolition of Steam Engine working in the Kota Division and introduction of Diesel Engine, as per policy, all running staff i.e. Drivers and Firemen were trained in Diesel side and were absorbed as Drivers and Diesel Assistant Drivers of Diesel Engines. The applicant was sent for Diesel Engine Training to the Diesel Training School, Patlam, and after completing the training he was subjected to written test and viva-voce, in which he was declared successful. He underwent practical working training of one month. On completion of the same he was put to work as Diesel Assistant Driver. A final seniority list of Diesel Assistant Drivers/First Firemen was published vide Ann.A-6 dated 10.8.89, in which the name of the applicant figured at Sl.No.429. Since his absorption as Diesel Assistant Driver, the applicant, as stated by him, has been discharging the duties of the post.

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However, he has been ordered to be posted as a Boxboy/Callboy scale Rs.775-1025 at Idgah, which order is being assailed as being arbitrary and unjust because before passing the said order no show-cause notice or any reasonable opportunity of hearing was given to the applicant.

3. On the contrary, the respondents have stated that since the appointment of the applicant to the post of Fireman Grade-II was found by them to be illegal having been made on the basis of the false declaration of passing 8th Class, the applicant was not at all entitled to get promotion on the post of Fireman Grade-I and his passing of the conversion training from the Steam Traction to the Diesel Traction cannot give him any right for retention in the cadre and, therefore, there was no necessity of giving a show-cause notice.

4. We have heard the learned counsel for the parties. The counsel for the parties have agreed to this matter being disposed of at the stage of admission.

5. The post, to which the applicant has been transferred, carries the pay scale of Rs.775-1025. The applicant was serving as a Diesel Assistant Driver/First Fireman and his name figured at Sl.No.429 in the seniority list of Diesel Assistant Drivers/First Firemen published on 10.8.89 vide Ann.A-6. The post of Diesel Assistant Driver/First Fireman carries the pay scale of Rs.950-1500 and, in the circumstances, the posting of the applicant as Boxboy/Callboy in a lower scale of pay without affording an opportunity of hearing to him amounts to violation of the principles of natural justice. The impugned order appears to be arbitrary and it is, therefore, quashed. However, the respondents are free to pass a fresh order within a reasonable period after affording an opportunity of hearing to the applicant. The respondents are directed to retain the applicant in the post of Diesel Assistant Driver/First Fireman till a fresh order is passed in regard to the applicant. In regard to the back wages of the applicant, the respondents shall pass an appropriate order.

6. The OA stands disposed of accordingly, at the stage of admission, with no order as to costs.

  
(O.P.SHARMA)

ADMINISTRATIVE MEMBER

  
(GOPAL PRISHIA)

VICE CHAIRMAN

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