

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 21.11.96

OA 548/96

Alok Kumar Sharma, Sr. Electrical Chargeman in the office of Sr. Electrical Foreman (P.A.C.), Western Railway, Jaipur.

... Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Power House Road, Jaipur.
3. Shri P.P. Meena, Sr. Electrical Chargeman O/o Divisional Electrical Engineer, Western Railway, Jaipur.

... Respondents

CORAM:

HON'BLE MR.GOPAL IRISHNA, VICE CHAIRMAN

HON'BLE MR.S.C.VAISH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.P.V.Calla
For the Respondents ... Mr.U.D.Sharma

O R D E R

PER HON'BLE MR.GOPAL IRISHNA, VICE CHAIRMAN

Applicant, Alok Kumar Sharma, in this application u/s 19 of the Administrative Tribunals Act, 1985 (for short, the Act), has challenged his reversion from the post of Senior Electrical Chargeman in the scale of Rs.1600-2660 to that of Electrical Chargeman scale Rs.1400-2300. He has also assailed the aforesaid impugned order in so far as it relates to respondent No.3.

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

3. The main ground of the applicant's challenge to the impugned order is that promotion to respondent No.3 was given against a roster point meant for a Scheduled Tribe candidate despite the fact that he was junior to the applicant in the feeder cadre and in such a situation the applicant, who was senior to respondent No.3 and who has already been promoted on ad hoc basis to the post of Senior Electrical Chargeman, should not have been reverted to a lower post. It is also contended by the applicant that respondent No.3 should not have been promoted against the roster point as he was not on the strength of the Jaipur Division. The learned counsel for the applicant cited (1981) 4

SCC 247, V.Vellaswamy v. Inspector General of Police, Tamil Nadu, Madras and another, 1987 (5) SLR 643, Dr.(Smt.) Kuntesh Gupta v. MGT. of Hindu Kanya Mahavidyalaya, Sitapur, and others and 1991 (3) SLR 485, Harnam Kaur and others v. Union of India and others, to urge that the remedy of appeal is not an efficacious remedy and that, in the circumstances, there should not be any insistence on the exhaustion of remedies provided for by rules before filing an application before this Tribunal since the respondents have raised a preliminary objection that the applicant having failed to prefer an appeal against the order reverting him from the post of Senior Electrical Chargeman to that of an Electrical Chargeman before presenting this application, the same is premature.

4. The relevant portion of Rule 18 of the Railway Servants (Discipline & Appeal) Rules, 1968 (for short, the Rules) reads as under :-

"Subject to the provisions of Rule 17, a Railway servant may prefer an appeal against all or any of the following orders, namely--

.....

(v) an order--

.....

(b) reverting him while officiating in a higher service, grade or post to a lower service, grade or post, otherwise than as a penalty;"

The mere fact that the applicant was promoted to the post of Senior Electrical Chargeman on ad hoc basis does not take the case out of the ambit of the provisions contained in the rule quoted above. To officiate on a post means to act in an official capacity. The applicant was acting in an official capacity as a Senior Electrical Chargeman on his promotion to the said post on ad hoc basis. The applicant did not avail of the statutory remedy of appeal against the order of reversion before filing this application. There are no exceptional grounds justifying dispensation with the requirements of Section 20 of the Act. The present OA having been filed without availing of the statutory remedy of appeal against an order of reversion is premature and as such it is dismissed at the stage of admission with no order as to costs.

mmL

(S.C.VAISH)

ADMINISTRATIVE MEMBER

GK

(GOPAL KRISHNA)

VICE CHAIRMAN

VK