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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 13/12/2002

OA 362/97

Radhey Shyam Sharma Head TTE, W/Rly, Bandikui, Jaipur Dn.

... Applicant

v/s

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Divisional Railway Manager, W/Rly, Jaipur.

... Respondents

CORAM:

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

HON'BLE MR .A .P .NAGRATH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr .P .P .Mathur

For the Respondents ... Mr .U .D .Sharma

O R D E R

PER HON'BLE MR .A .P .NAGRATH, ADMINISTRATIVE MEMBER

In this OA, the applicant has challenged the order dated 31.7.97 (Ann.A/1), by which his name has been deleted from the panel for the post of Head TTE in scale Rs.1400-2300.

2. Case of the applicant is that he was initially appointed on the post of Ticket Collector on 11.6.80 and was subsequently promoted to the post of TTE on 23.7.85 in the scale Rs.1200-2040. Applicant's name was included in the panel dated 24 25.4.94 for promotion to the post of Head TTE in the scale Rs.1400-2300 and was placed at S.No.42. This panel was kept provisional subject to the outcome of the case of J.C.Malik v/s Union of India,

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pending before Hon'ble the Supreme Court of India. The applicant has challenged the impugned order on the ground that he had been continuing on the said post of Head TTE right from the date he was included in the panel dated 25.4.94 (Ann.A/2) and the respondents cannot now delete his name by stating that the applicant was working on that post only on ad hoc basis. He could not have been reverted now after a period of three years, which period is more than 18 months and the respondents are not right in reverting him as his promotion was substantive.

3. The respondents have filed their reply and have stated that when the applicant was reverted by letter dated 31.7.97, he had only been working as Head TTE on ad hoc basis. It has been admitted that his name was included in the provisional panel issued on 25.4.94 but 7 posts had been kept vacant for some of the employees because of the reasons mentioned in the letter dated 25.4.94 itself. Subsequently, after receipt of clarification from the headquarters office 13 persons were required to be interpolated in the said panel, which was done vide letter dated 6.6.94. Names of these 13 persons were kept above that of the applicant. Consequent to inclusion of names of those 13 persons, 7 officials whose names appeared from S.No.40 to 46 in the said panel dated 25.4.94, were required to be deleted. The same was done vide letter dated 6.6.94 (Ann.R/3) and that is how the name of the applicant also had to be deleted from the said panel. Since vacancies were still available in the cadre of Head TTE, the applicant was promoted to the said post on ad hoc basis vide letter dated 8.6.94 (Ann.R/4). It has further

(12)

been stated by the respondents that selection process for filling up of 34 posts, out of which 25 were for general category candidates, had been initiated vide notification dated 14/16.10.95 and in the list of eligible candidates name of the applicant had also been included. The applicant appeared in the written test held on 23.12.95 but he failed to qualify the same for being called for the viva-voce. Pursuant to the said selection process, a provisional panel had been notified vide order dated 9.1.97. Applicant's name was not included in the panel as he failed to qualify for the viva-voce test. Since the applicant was working as Head TTE on ad hoc basis, he was reverted to his original post of TTE and posted at Bandikui vide order dated 31.7.97. In view of these facts it is not correct for the applicant to say that his name has been deleted from the panel prepared on 25.4.94 by the impugned order. The applicant had voluntarily appeared in the written test held on 23.12.95 consequent to the notification dated 14/16.10.95. When the name of the applicant had been deleted from the panel vide order dated 6.6.94 and when he was subsequently promoted on ad hoc basis vide order dated 8.6.94, he had not challenged any of those orders which have now attained finality.

4. We have heard the learned counsel for the parties and perused the whole record.

5. We find that a provisional panel was prepared for promotion to the post of Head TTE in the scale of Rs. 1400-2300 on the basis of service record only and the panel was made effective w.e.f. 1.3.93. This was consequent to implementation of the cadre restructuring scheme of the Railways

which required filling up of the vacancies caused by the restructuring process through the procedure of modified selection. The promotions were based only on the service record and the written examination had been dispensed with as a large number of vacancies had to be filled up at the same time. This is not disputed that the panel issued on 25.4.94 was a regular panel of promotion to the post of Head TTE and the applicant's name appeared at S1.no. 42 in that panel. 7 posts had been kept vacant as some disciplinary proceedings were pending against 3 of the employees and records in respect of 4 employees were not available. Similarly two posts were kept vacant for SC candidates against whom major penalty proceedings were pending and one post was kept vacant for non-availability of service record. 5 posts were kept vacant due to non-availability of candidates. This panel was kept provisional in view of the pending case of J.C. Malik before Hon'ble the Supreme Court. Subsequently, another order was issued on 6.6.94 stating that after receipt of some clarifications from the headquarters office and various reasons indicated against each name, names of 13 persons were interpolated in the panel issued on 25.4.94. In the same order dated 6.6.94 names of 7 persons were deleted consequent to interpolation of names of those 13 employees. Names of 4 SC/ST candidates were also interpolated in the panel by the same order. Names of the candidates appearing at S. no. 40 to 46 were deleted, which included the name of the applicant also, whose name was at S.No. 42 of the said panel dated 25.4.94. Later, vide order dated 8.6.94 (Ann.R/4) another 8 persons were promoted on ad hoc basis as Head TTE in the scale Rs. 1400-2300. These 8 persons included there where names

had been deleted vide order 6.6.94 from the panel. We find from the records and also the submissions made before us by the learned counsel for the respondents that these orders of deletion of names and promotion to the post of Head TTE on ad hoc basis had not been challenged by the applicant at any stage. What the applicant has impugned before us now is the order dated 31.7.97, by which he has been reverted from the post of Head TTE to that of TTE. This impugned order is in reference to a panel issued on 9.1.97 (Ann. R/1). This panel is the result of the selection held consequent to the notification dated 14/16.10.95. This fact has been accepted by the applicant that he had appeared in the selection but could not qualify in the written test. He has been reverted as the post had been filled up by promotion on regular basis. No fault can be found in this action of the respondents, which has been taken after following the due process. The applicant had not, at no stage, challenged the orders dated 6.6.94 and 8.6.94. Continuing for a long period on ad hoc basis does not create a right to hold a post. In the later process of selection, the applicant has not been successful. We find no merit in his case.

6. We, therefore, dismiss this OA as devoid of any merit with no order as to costs.

*Agarwal*  
(A.P. NAGRATH)  
MEMBER (A)

*Agarwal*  
(S.K. AGARWAL)  
MEMBER (J)