

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR

Original Application No. 116 of 2005

Jabalpur, this the 28th day of September, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Shri T.R.Prasad Rao, S/o late Shri T.R.Krishna Rao,
Aged about 47 years, Employed as (Adhoc) Jr.Clerk,
O/o the Chief Engineer (Construction), S.E.C. Railway,
Bilaspur, residing at Railway Quarter No...R.T.S.Colony,
Bilaspur(CG) - Applicant
(By Advocate – Shri B.P. Rao)

V E R S U S

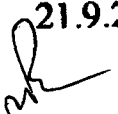
1. Union of India, Through : The Secretary,
Ministry of Railways, Rail Bhawan, New Delhi.
2. The General Manager, South East Central Railway,
G.M. Office, Bilaspur-495001 (Chhattisgarh)
3. The Divisional Railway Manager
South East Central Railway, Bilaspur Division,
Bilaspur-495001 (Chhattisgarh)
4. The Sr. Divisional Personnel Officer,
South East Central Railway, Bilaspur Division,
Bilaspur-495001 (Chhattisgarh)
5. The Dy.Chief Personnel Officer (C),
South East Central Railway, Bilaspur Division,
Bilaspur-495001 (Chhattisgarh) - Respondents
(By Advocate – Shri M.N. Banerjee)

ORDER

By M.P. Singh, Vice Chairman –

By filing this Original Application, the applicant has sought the following main reliefs :-

“8.2 to quash the impugned office order no.138/2004 bearing no.E/Con/Adhoc/753 dated 29.11.2003 (Annexure-A-9) and subsequent letter no.E/SA/Mech/ Loco/CI.IV dtd. 21.9.2004 (Annexure-A-13).



8.3 to pass a direction to the respondent to restore the applicant as adhoc Senior Clerk w.e.f.29.11.2003 and for payment of arrears of difference of pay between Jr.Clerk and Sr.Clerk etc.

8.4 to pass another direction to the respondents to regularize the applicant's service as Junior Clerk on completion of 2 years i.e. w.c.f.7.9.1989 and also as Senior Clerk w.c.f. 8.9.1991 with all consequential benefits thereof'.

2. The brief facts of the case are that the applicant was initially appointed as casual labour on 27.12.1979 and subsequently his services were regularized as Khalasi in the pay scale of Rs.750-940 on 30.4.1987. While maintaining his lien in open line, he was transferred to the construction department as Khalasi vide order dated 11.5.1987. On 7.9.1987 he was promoted in the construction department as Junior Clerk in the pay scale of Rs.950-1500 purely on adhoc basis. He was further promoted to officiate on adhoc basis as Senior Clerk in the pay scale of Rs.1200-2040 vide order dated 8.9.1989. He was allowed to continue as Senior clerk. Vide order dated 29.11.2001 (Annexure-A-9) the applicant was reverted to the post of Junior Clerk as he was granted two adhoc promotions. Hence this Original Application.

3. The respondents in their reply have stated that the staff drafted from open line are given temporary adhoc promotions during their tenure in construction organization on the condition that these promotions are purely adhoc and it will be terminated at any time as and when required by the administration, specially when they are reverted to open line i.e. their parent department where their lien is maintained. Their regular promotion can only be given by the open line (Division) as per their seniority and after participation in the selection/suitability test conducted from time to time. Selection of Junior Clerk in Construction organization are made against the vacancies of construction organization amongst staff working in that

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organization. It is a local arrangement and is on adhoc basis. Besides, the post of Junior Clerk is a selection post in which no promotion will be given in open line to an open line lien holder without passing the test. The respondents have further stated that the Chief Administrative Officer (Construction) South Eastern Railway, Bhubaneswar has stated that "All second or more adhoc promotion granted to staff in violation of Railway Board's extent instructions on adhoc promotion, should be terminated w.e.f. 1.12.2001". In view of these facts, the respondents have submitted that the present O.A. is liable to be dismissed.

4. Heard the learned counsel of both the parties.


5. The learned counsel for the applicant has also submitted his written submissions.

6. The admitted facts of the case are that the applicant, who was initially engaged as a casual labour, was subsequently regularized as Khalasi in open line on 30.4.1987. Immediately thereafter he was posted in the construction division, where he was appointed as Junior Clerk on adhoc basis on 7.9.1987. He was again promoted on adhoc basis as Senior Clerk vide order dated 8.9.1989. Vide order dated 29.11.2001 he has been reverted from the post of Senior Clerk to Junior Clerk in terms of orders issued by the South Eastern Railway, Bilaspur dated 13.11.2001.

7. The question for consideration is whether the reversion of the applicant from the post of Senior Clerk to Junior Clerk is as per the instructions issued by the respondent-railways.

8. We find that the applicant has got his lien on the post of Khalasi in open line from 1987. Thereafter he was transferred to the construction division where he got two adhoc promotions as Junior Clerk in 1987 and Senior Clerk in 1989. The order dated 13.11.2001 issued by the Office of the Chief Administrative Officer(Con), South Eastern Railway, Bhubaneswar (Annexure-A-8) stipulates as under:

"All second or more adhoc promotion granted to staff in violation of Railway Board's extent instructions on adhoc



promotion, should be terminated w.e.f. 1.12.2001. Necessary order in respect of this should be issued well in advance"

It is an admitted position that the applicant was granted two adhoc promotions to the posts of Junior Clerk and Senior Clerk in Construction division. Accordingly, he was reverted from the post of Senior Clerk to Junior Clerk vide order dated 29.11.2001 (Annexure-A-9). Moreover, we find from the impugned order dated 21.9.2004 (Annexure-A-13) issued by the Sr.Divisional Personnel Officer, South East Central Railway, Bilaspur, addressed to the applicant, that the post of Junior Clerk is a selection post and the applicant has failed twice in selection to the post of Junior Clerk. In the said order, it has been further stated that without empanelment in selection of Junior Clerk it is not possible to regularize the applicant as Junior Clerk as per rules. It is also stated in the said order that the applicant has not submitted any option for the post of Asstt.Driver (Diesel) when he was eligible being loco surplus staff, though other lien holders of loco/Bilaspur working under CE(Construction) have submitted their options for the post of Assistant Driver (Diesel) and were given chance for promotion after found suitable in screening and passed in requisite medical examination. The post of Assistant Driver is classified as safety category and in safety categories automatical promotion without appearing in prescribed selection is not permissible as per extant rule.

9. From the facts mentioned above, it is clear that the applicant is holding the post of Junior Clerk on adhoc basis in the construction division. As per rules, he is required to be promoted on regular basis as Junior Clerk with reference to his seniority against the post of Khalasi, in open line in which post his lien is kept. It is an admitted position that no junior to the applicant has been promoted from the post of Khalasi, against which his lien is kept. Moreover, the post of Junior Clerk is required to be filled up as per recruitment rules and after qualifying the selection for that post as per prescribed



procedure. It is also an admitted position that the applicant has failed twice in the said selection and, therefore, he cannot claim his regular appointment as Junior Clerk.

10. In the result, for the reasons stated above, the present O.A. is bereft of merit and it is accordingly dismissed, however, without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

Rkv.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पत्तिलिपि अन्वेषित:-

- (1) सचिव, उच्च न्यायालय वार एरोडिक्शन, जबलपुर
- (2) आवेदक श्री/श्रीमती/पु.....के काउंसल
- (3) प्रत्यर्पी श्री/श्रीमती/पु.....के काउंसल
- (4) ग्रंथपाल, को.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

B.P. Rao Durg
M. P. Singh Durg

उप रजिस्ट्रार

29/9/15