

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 1096 of 2000

Jabalpur, this the 8th day of April, 2004

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

U.K. Kale, Chief Office Superintendent,
DRM's Office, Central Railway, Bhopal. ... Applicant

(By Advocate - Shri Sanjay Yadav with Shri A.K. Tiwari)

V e r s u s

1. Union of India, through its
General Manager, Central Railway,
Mumbai CST.
2. Divisional Railway Manager, Central
Railway, Bhopal.
3. Shri H.L. Meena, Office Superintendent
Gr. I, Central Railway, Bhopal.
4. Shri I.L. Meena, Office Superintendent,
Central Railway, Bhopal. ... Respondents

(By Advocate - Shri S.P. Sinha for the official respondents
and Shri L.S. Rajput for the private respondents)

O R D E R


By Madan Mohan, Judicial Member -

By filing this Original Application the applicant
has claimed the following main reliefs :

- "i) quash the order dated 24.11.2000 Annexure A-1.
- ii) direct the respondents to restore the applicant
to the post of Chief OS.
- iii) direct the respondents to grant all the
consequential benefits."

2. The brief facts of the case are that in the year 1998,
the Railway Board as per the recommendation of the Vth Central
Pay Commission, introduced a new pay scale in Ministerial
category and accordingly the post of Chief Office Superinten-
dent with a new pay scale of Rs. 7450-11500/- has been
introduced. The said post is being filled in by selection of

eligible office Superintendent Grade-I in the scale of Rs. 6500-10500/-. The respondents consequent upon the aforesaid decision notified filling^{up} of 4 posts i.e. 3 by general category and 1 by scheduled caste category, vide notification dated 27.11.1998. ^{As per} the seniority of the applicant he is graded senior to Shri H.L. Meena respondent No. 3. The written test was conducted on 26.12.1998 and the applicant qualified for the viva-voce test and his name appeared in the select list dated 2.2.1999. The respondents had rightly assigned the seniority without giving him the benefit of his enhanced promotion for the purpose of seniority. The applicant has further submitted that while the selection list was prepared it was observed that the respondent No. 3 was placed over and above the applicant. This action of the respondents were objected to by the applicant and similarly placed other persons. The applicant has further submitted that considering his representation, the respondents brought the select list on 13.2.1999 (Annexure A-1), wherein the applicant was promoted to the post of Chief Operating Superintendent (P) in the grade of Rs. 7450-11500/- and was placed in the merit order at Serial No. 3. He further submitted that a right has accrued in his favour to hold the post of Chief OS and the said promotion cannot be varied in any manner whatsoever. The respondents while committing the aforesaid cardinal principle cancelled the order of promotion and the applicant is being reverted to accommodate a junior to the applicant. The action of the respondents besides being in violative of principles of natural justice is also contrary to law. He has also submitted that it is beyond the powers of the respondents to cancel the promotion by subsequently changing the seniority list. The respondents ^{have} adopted separate method. In the case of promotion of OS Grade II to OS Grade-I the respondents have maintained




the principles laid down in the judgment of the Hon'ble Supreme Court but in the case of the applicant it has been changed after selection and promotion. Aggrieved by this the applicant has approached this Tribunal by filing this Original Application claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and perused the records.

4. It is argued on behalf of the applicant that he was reverted after a period of 22 months, without giving any notice and show cause and he was not even given an opportunity of hearing and it amounts to violation of principles of natural justice and violation of the rules and law. The applicant was holding a regular post. The learned counsel for the applicant further submitted that it is clear from perusal of the order dated 24.11.2000 (Annexure A-2) that this order is a non-speaking order as no reasons have been assigned in this order for reversion of the applicant. It is further argued that one cannot be reverted from a post unless reasonable opportunity of hearing is given. Hence the reversion of the applicant is against the law.

5. On the other hand the learned counsel for the respondents argued that after verification of the facts it was found that the applicant's promotion was erroneous. ~~It~~ was made ~~on~~ Promotion/on account of wrong assumption that the applicant was senior to the respondent No. 3 and the same was corrected on the basis of para 228 of IREM Volume (I), 1989. Thus the promotion of the applicant was an administrative error which has been corrected by modifying the panel dated 15.3.1999 by order dated 24.11.2000 and by issuing the show cause notice to the applicant. There is no question of violation of



principles of natural justice. The reversion order of the applicant was pasted on the notice Board of the respondents as the applicant was on leave. Legally there was no necessity to inform the applicant about correction of this administrative error according to the aforesaid para of the IREM.

6. Again the learned counsel for the applicant has argued that the aforesaid para 228 of IREM does not exempt the respondents to afford an opportunity of being heard to the applicant for such type of serious action of reversion. Merely pasting the said order in the notice board of the respondents is not at all sufficient ^{per} as/ the above para of IREM. It was mandatory duty of the respondents to give an opportunity to the applicant of being heard and in that case the order of reversion should have been passed by a speaking, detailed and reasoned order. The learned counsel for the applicant further argued that as far as the service of the order on the applicant is concerned the applicant was on leave from 23.11.2000 to 24.11.2000 and subsequently under sick list from 25.11.2000 to 29.11.2000. Hence the order was pasted on the notice board. It is the admission of the respondent that order was not served on the applicant. It was surprising for the applicant that he came to know about his reversion order passed earlier only when he came to his office.

7. We have carefully considered the rival contentions made on behalf of the parties and we find that paragraph 228 of the IREM Volume (I), 1989 does not exempt the respondents from issuing the show cause notice and opportunity of being heard to the applicant. This paragraph further provided that the case can be decided on merits (

In this case the applicant was not heard.

According, to the own admission of the respondents they have

simply pasted the reversion order on the notice board of the respondents as the applicant was on leave on that very day when the order was issued. Reversion from senior post to junior post is apparently very humiliating to the employee. Hence in such cases opportunity of being heard must be provided in the interest of justice and also to meet the ends of justice, which is apparently not done in this case.

8. Accordingly, we are of the considered opinion that this Original Application deserves to be allowed. We do so accordingly and quash the order dated 24.11.2000 (Annexure A-1) with a direction to the respondents to give notice to the applicant and after affording reasonable opportunity to show cause and of hearing, the respondents shall pass a speaking, detailed and reasoned order within a period of four months from the date of receipt of copy of this order. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठान्त रं ओ/व्या.....जयपुर, दि.....
प्रतिनिधि/अपेक्षित:-

- (1) सचिव, जयपुर जिला प्रशासन, जयपुर
- (2) जयपुर जिला प्रशासन, जयपुर S. Yadav
- (3) जयपुर जिला प्रशासन, जयपुर SP Siwla
- (4) जयपुर जिला प्रशासन, जयपुर H. S. Aggarwal

4/8/01
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