

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 131 of 2000

Jabalpur, this the 17th day of February, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. G. Shanthappa, Judicial Member

B.K. Jain aged about
38 years S/o L.C. Jain
working as Senior Section
Engineer(TRS) under Senior
Divisional Electrical Engineer
(Itarsi Bhopal Division
Central Railway R/o Rly Quarter
R.B.II 564 TRS Colony Itarsi
Distt. Hoshangabad.

APPLICANT

(By Advocate - Smt. S. Menon)

VERSUS

1. Union of India through
General Manager,
Central Railway
Mumbai C.S.T.
2. Divisional Railway
Manager - Central Railway
Bhopal
3. Sudharam Samanta
Section Engineer(TRS)
through Sr. Divisional
Electrical Engineer(TRS)
Itarsi - Bhopal Division
Central Railway

RESPONDENTS

(By Advocate - Shri S.P. Sinha)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

By filing this Original Application, the
applicant has prayed for the following main reliefs-

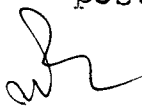
- (i) to direct the respondents no.1 and 2 to
withdraw and cancel the reversion orders
so far as the applicant is concerned and
restore him to the occupied grade of
Rs.2375-3500/- (Rs.7450-11500).
- (ii) to direct the respondents to adjust
respondent no.3 against vacancy as proposed
by respondent no.2 to the respondent no.1



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2. The brief facts of the case are that the applicant was appointed in Railway service as apprentice Chargeman Grade Rs.1400-2300 with effect from 19.3.1985. He was further promoted to the grade of Rs.1600-2660 as Chargeman 'A' in Jabalpur with effect from 9.6.1989. He was declared surplus on closure of Steam Loco Shed at Jabalpur and posted under Senior Divisional Electrical Engineer (TRS), Itarsi where he resumed his duties in February, 1993. The selection for promotion to the grade of Rs.2000-3200 was conducted on zonal basis and the applicant was found suitable to be placed on the panel. He was promoted on regular basis in the same grade with effect from 24.2.1993 vide Annexure-A-3. He was thereafter promoted to the grade of Rs.2375-3500 (revised Rs.7450-11500) on regular basis with effect from 11.12.1996. The applicant has been reverted without any show cause notice vide order dated 4.2.2000 (Annexure-A-1) to the grade of Rs.6500-10500, consequent to promotion of one Shri Samanta, respondent no.3. Aggrieved by this, the applicant has filed the present Original Application claiming the aforesaid reliefs.

3. The respondents in their reply have stated that the applicant was promoted on the post of Senior Section Engineer and was the



Contd.....3/-

junior most in the grade. Since respondent no.3 was left out for promotion through restructuring on 1.3.1993 and on his representation the mistake was detected and hence he was given promotion from 1.3.1993. The applicant was promoted in the grade of Rs.2000-3200 on 16.11.1993. On this basis, the applicant was junior and hence while promoting the respondent no.3 in the grade of Rs.2375-3500, the junior most employee i.e. the applicant had to be reverted. Thus, the reversion is proper and the challenge made is illegal.

4. Heard both the learned counsel for the parties.

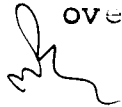
5. The learned counsel for the applicant has stated that the applicant was appointed on regular basis in the grade of Rs.2000-3200 on the basis of selection and the result of the selection was declared on 24th February, 1993 and the official-respondents have promoted the respondent no.3 from a later date. Thus, the applicant cannot be treated as the junior most. According to the instructions contained in the Indian Railway Establishment Manual, a person selected on the basis of earlier panel is treated senior to the person selected in the subsequent selection.

6. On the other hand, the learned counsel for the respondents has stated that the applicant was declared surplus while working in the grade of



Rs.1600-2660 and was later absorbed in TRS in the same grade on 22.3.1993. The order promoting the applicant dated 16.11.1993(Annexure-A-3) does not show that the applicant was given regular promotion with effect from 24.2.1993. Since this order was confusing, an order dated 16.9.1996 was passed and by the said order, the order dated 27.01.1994(Annexure-A-4) has been modified and the promotion of the applicant was treated as from 16.11.1993 on regular basis. Thus, the applicant has suppressed the letter dated 16.9.1996(Annexure-R-1). Hence, he is not entitled for any benefit. The respondents have further stated that since respondent no.3 was promoted under restructuring scheme and he was held senior and for his promotion, the junior most had to be reverted. Had the respondent no.3 been considered at the time of restructuring and promoted, then the applicant would not have been promoted. Hence on promotion of the senior, who was left out by mistake of the administration, was considered and promoted on his turn and the applicant cannot seek promotion and continuance due to administrative error.

7. We have considered the rival contentions and we find that the applicant was declared surplus in the grade of Rs.1600-2660 and was posted at Itarsi. He has been promoted on regular basis only from 16.11.1993. The order issued on 16.11.1993 indicating the proforma promotion of the applicant in the grade of Rs.2000-3200 w.e.f.24.2.1993(Annexure-A-3) was erroneous. The mistake has been rectified by the respondent by issuing the order dated 16.9.96(Annexure-R-1), whereby the applicant has been regularly promoted in the grade of Rs.2000-3200 w.e.f.16.11.93. Since the respondent no.3 was left out for promotion, on his representation he has been promoted w.e.f. 1.3.93 under restructuring scheme. He is, therefore, senior to the applicant. The respondent no.3 was also senior to the applicant in the grade of Rs.1600-2660. The claim of the applicant that he was appointed on regular basis in the grade of Rs.2000-3200 w.e.f.24.2.93 whereas respondent no.3 was given promotion w.e.f.1.3.93, therefore, he should be given seniority over respondent no.3, is not tenable and is rejected.



Therefore, the claim of the applicant that he was regularly promoted from 24.2.1993 and is not the junior most is also rejected. However, we find that the respondents while issuing the reversion order of the applicant dated 4.2.2000 (Annexure-A-1) have not given an opportunity of hearing to the applicant. Since the applicant has been reverted from a higher post to a lower post, he should have been put ^{to} a notice and an opportunity of hearing should have been given.

8. Accordingly, the respondents are directed to give an opportunity of hearing to the applicant. The applicant will be at liberty to make a fresh detailed representation to the respondents within a period of one month from the date of receipt of a copy of this order. If the applicant complies with this order, the respondents are directed to consider the representation of the applicant and take a decision within a period of three months from the date of receipt of such representation by passing a speaking and reasoned order.

9. With the above direction, the OA is disposed of. No costs.

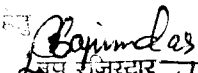

(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

rkv.

पृष्ठान्त में जो/ज्या..... जाहसुल, दि.....
सूचना देना आवश्यक नहीं है

- (1) राजस्थान सरकार के मुख्य सचिव
- (2) जिला मजिस्ट्रेट, जयपुर
- (3) जिला मजिस्ट्रेट, बीकानेर
- (4) जिला मजिस्ट्रेट, कोटा

सूचना देना आवश्यक नहीं है

जयपुर 11/3/04

GSSKed
11-3-04