

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 286 of 2000

Jabalpur, this the 7th day of May, 2004

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

D.K. Sharma, aged 39 years,
Son of Shri M.M. Sharma, Area
Controller, Itarsi Yard, Railway
Station Itarsi, resident of RB-III,
357/A, Railway Colony, New Yard,
Itarsi, District Hoshangabad (MP). ... Applicant

(By Advocate - Shri S. Nagu)

V e r s u s

1. Union of India,
through Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi.
2. Chief Personnel Officer (Traffic),
Central Railway, Chhatrapati
Shivaji Terminal, Mumbai. }
3. Divisional Railway Manager
(Personnel), Senior Divisional
Personnel Office, Bhopal, Central
Railway, Habibganj, Bhopal (MP).
4. Divisional Personnel Officer,
Bhopal, Central Railway,
Habibganj, Bhopal (MP). ... Respondents

(By Advocate - Shri S.P. Sinha)

O R D E R

By Madan Mohan, Judicial Member -

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


"(i) to quash Annexure A-5 dated 23.12.1999 the
impugned reversion order as void, illegal and
arbitrary.

(ii) to further direct the respondents to allow
the petitioner to function in the grade of 6500-10500
as if the impugned reversion order had not been issued
at all.

(iii) to direct the respondents to consider the
applicant promoted in the scale of 6500-10500 with
effect from 20.9.1995 and accordingly assign him
seniority in the said grade."



2. The brief facts of the case are that the applicant entered the establishment of the Railways on 10.5.1980 as Assistant Station Master. The applicant has been awarded promotions of higher scale on three occasions after his initial appointment. He appeared in a written test held on 24.6.1995 for promotion to Area Controller. He was declared passed in the written test as a consequence of which he was invited for viva-voce which was held on 5.3.1995. The applicant was declared successful and as such the promotion order from Grade-I ASM to Area Controller vide order 20.9.95 was issued by the respondent No. 3. The promotion given to the applicant alongwith five other individuals was duly approved by the competent authority. The applicant assumed charge on the higher post of Area Controller on 20.9.1995 itself at Itarsi Yard. The post of Area Controller was an ex-cadre post. There was no channel of promotion existing at that point of time for Area Controller to be promoted further. To remove this anomaly the respondent No. 3 with reference to the aforesaid promotion order requested the respondent No.2 for laying down the guidelines in this regard. The applicant continued to function at Itarsi Yard as an Area Controller awaiting the laying down of guidelines by the respondent No. 2 so as to eliminate the insecurity which Area Controllers faced on account of their post being ex cadre one. In this regard the respondent No. 2 by its letter dated 29.10.98 informed the respondent No. 3 that a proposal for merger of the post of Area Controller in the cadre of ASM is on active consideration. Finally by letter dated 22.10.1999 the respondent No. 2 after obtaining necessary approval from the competent authority communicated its decision that the post of Area Controllers be merged with the cadre of AM (Assistant Yard Master)/TI (Traffic Inspector)/SM (Station Master). This letter further directed all the divisions to



to take necessary action so that the decision taken by the respondent No. 2 after due approval of the competent authority is implemented. During all this time when the aforesaid correspondence was taking place between the respondent No. 2 and 3 the applicant continued to function as Area Controller in the scale of Rs. 6500-10500/- at Itarsi Yard. The respondent No. 3 without assigning any reason and without affording any opportunity of any kind or issuing any show cause notice in this regard issued the impugned reversion order dated 23.12.1999 by which the applicant was shown to be reverted from the scale of Rs. 6500-10500/- to the lower scale of Rs. 5500-9000/-. This order is not served on the applicant till date. The applicant continues to hold the charge of the post of Area Controller. No other person in the scale of Rs. 6500-10500/- has been posted to relieve the applicant. Incidentally before the decision of merging the post of Area Controller into the cadre of AYM/TI/SM would be taken the applicant on account of functioning of an ex cadre post was facing continuous insecurity and therefore the applicant availed opportunity of appearing in the written test/examination and viva-voce for promotion to the post of Deputy Station Superintendent in the scale of Rs. 6500-10500/-. The written examination in this respect was held on 30.9.1999 and viva-voce on 29.12.1999. The applicant was declared successful in both these posts as a result of which by order dated 11.1.2000 the applicant was shown to be promoted as Station Master/Deputy Station Superintendent. The applicant through the Union preferred various representations, but of no avail. Hence this OA is filed by the applicant claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and



perused the records carefully.

4. It is argued on behalf of the applicant that before reverting the applicant neither any opportunity of hearing was given nor any kind of show cause notice has been issued. The respondents even without assigning any reason passed the impugned order of reversion arbitrarily and against the principles of natural ^{justice} and also against the provisions of law. The reversion is a major penalty and it demoralise the employee. Such type of order could not have been passed without giving opportunity of being heard. Our attention is drawn towards various documents filed on behalf of the applicant.

5. In reply the learned counsel for the respondents has argued that vide letter dated 9.7.1999 (Annexure R-III) the applicant was duly informed before passing the impugned order. He further argued that it was not required to issue any kind of show cause ^{notice} and to afford any opportunity of hearing to the applicant, as the said post was abolished. Hence the impugned order was passed well within the law by the respondents.

6. After hearing the learned counsel for the parties, we find that Annexure R-III dated 9.7.1999 is an internal correspondence. It is not addressed to the applicant. Hence it cannot be said that the applicant was earlier informed and he was given any opportunity of hearing and any show cause was issued against the impugned order of reversion. Reversion amounts to a major penalty and in this regard the argument advanced on behalf of the applicant seems to be proper and in the interest of justice an opportunity of hearing should have been given to the applicant before passing the impugned order of reversion even if the said post was alleged to have been

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abolished.

7. Thus we are of the considered opinion that the Original Application deserves to be allowed and the impugned order dated 23.12.1999 (Annexure A-5) is liable to be set aside and quashed. We do so accordingly. Further the respondents are directed to issue a show cause notice to the applicant and if the applicant submits any representation within a period of one month, the respondents are directed to dispose of the same by passing a speaking, reasoned and considered order within a period of two months from the date of receipt of such representation.

8. Accordingly, the Original Application stands allowed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिनिधि अ रहे बिना:-
(1) सचिव, न्यायिक प्रशासन, जबलपुर
(2) आवेदन संख्या.....के काउंसल S. Mayya
(3) प्रत्यक्षी/दीक्षा, दि.....के काउंसल SP Sinha
(4) अध्यक्ष, कोर्ट, जबलपुर कायदाई
सूचना एवं आवश्यक कार्यवाही हेतु
उप रजिस्ट्रार

Forwarded
12-5-04