

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 310/98

Jabalpur : this the 7th day of August, 2003

Hon'ble Mr. J.K. Kaushik, Judicial Member

Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

1. Gautam Manjhi S/o Sh.(Late)Ramayan Manjhi aged 43 years, Working as CTI, Gr.Rs.2000-3200/65-10500 under Stn. Manager Bhopal R/o Qr.No. G11 Near ECC Society East Rly. Colony, Bhopal.
2. D.K. Magre S/o Shri Kautik Magre aged 44 years, working as CTI, Gr. Rs. 2000-3200/6500-10500 under Stn. Manager Bhopal R/o G56, West Railway Colony Bhopal.

(By Advocate : Shri L.S.Rajput) Applicants.

Versus

1. Union of India through General Manager, Central Railway, Mumbai CST.
2. Divisional Railway Manager, Central Railway, Bhopal.

(By Advocate : Shri S.P.Sinha)

.... Respondents

ORDER (ORAL)

By J.K.Kaushik, Judicial Member :

Shri Gautam Manjhi and Shri D.K.Magre, had filed this O.A. primarily challenging the impugned order dated 13.4.98 (Annex. A/1) whereby they were ordered to be reverted from the post of CTI in the Grade Rs.6500-10500 to the lower post of ACTI grade Rs. 5500-9000.

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2. The factual matrix of this case is that both the applicants belong to ST community, they were initially appointed to the post of Ticket Collector and subsequently, as per the normal avenue, they were promoted as ACTI Grade Rs. 1600-2660. While they were working on the post of ACTI they were subjected to a selection test for the post of CTI in 1994 vide order Annex.A/2 dated 22.10.1994. The applicants passed the written test the result of which was declared on 19.7.1995 vide Annexure A/3. Thereafter, applicants were promoted as CTI in the grade Rs. 2000-3200 vide order dated 11.8.1995 (Annex.A/4). They have submitted that since the promotion was accompanied with transfer the applicants had ~~been~~ refused due to certain personal problems. However, the respondents promoted the applicants again on 3.1.1997 posting them at Bhopal itself vide order dated 15.1.1997 vide Annexure A/5 and since then applicants are continuously working on the higher post i.e. CTI.

3. The further case of the applicants is that an order dated 13.4.1998 (Annex-A/1) came to be passed by which certain amendments have been made in reverting to them to the lower post of ACTI without assigning any reason.

4. Reply has been filed on behalf of the respondents and facts and the grounds mentioned in the O.A. have been generally denied. It is stated that the application is premature as they have not exercised the departmental remedies of representation before filing this O.A. It has been averred that certain representations were received from the general category candidates as they were not empanelled despite the fact that they were senior as per the general seniority.

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The panel declared on 19.7.95 had overlooked the correct seniority of the general candidates and wrongly included the names of applicants who were of ST community and are much junior to the number of other general candidates. Thereafter, the panel was revised and as a result of that, the position of the applicants got changed and this has resulted into passing of the impugned order. We have also been shown a judgement of Hon'ble the Supreme Court rendered in Ajit Singh-II Versus State of Punjab and in view of the law laid down by Hon'ble the Supreme Court, the respondents have no option except to revert the applicants promoting the general category candidates who were senior to them.

5. A detailed rejoinder has been filed to the reply almost reiterating the facts and grounds taken in the OA controve^rting and also^r the defence ~~xx~~ which has been set out by the respondents in their reply. The respondents have also filed certain additional return annexing thereto certain additional documents.

6. We have heard the learned counsel for the parties and have very carefully perused the pleadings and the records of this case.

7. Both the learned counsel for the parties have reiterated their pleadings and we find that there are hardly any quarrel as far as the facts of the case are concerned. Since both the applicants belong to ST category and certain protection has been provided to them but certain confusion had arisen in the mind of the respondents inasmuch as the case of Ajit Singh - II which was decided on the very day when

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Jatindra Pal's case was decided, has lost sight off the respondent-department. Further, in the case of Jatinder Pal Singh and Others Vs. State of Punjab reported in 1999 SCC (L&S) 1280 Hon'ble the Supreme Court in para 17 of its judgement had held that 'it appears that in the Indian Railways which is a very huge organisation, after Ajit Singh I² was decided, the said judgement could not be taken up for implementation immediately. Therefore, there were certain further promotions after 1.3.1996 on the basis of the continuous officiation of the roster-point promotees (reserved candidates) even though several general candidates had reached the promotional level before the reserved candidates moved further upwards. The Railways made a special plea through the learned Additional Solicitor General, Shri C.S. Vaidyanathan that such reserved candidates be not reverted from the higher post if promoted before 1.4.1997'.

The aforesaid proposition of law which is more relevant in the case in hand, has been duly accepted by Hon'ble the Supreme Court with certain reservations. However, it has been specifically made clear that a candidate ^{who} belongs to ST category, if promoted prior to 1st April, 1997, such candidate could not be reverted. In this view of the matter, the applicants were not required to be reverted and the cited judgement squarely covers on all fours to the controversy involved in the present case. Therefore, the O.A. deserves acceptance and has force.

8. In the premises, the Original Application is hereby allowed and the impugned order dated 13th of April, 1998



annexed as Annex.A/1 so far it relates to the applicants are concerned, is hereby quashed. The applicants shall be entitled to all the consequential benefits, as if, the impugned order was never in existence. The Interim Order issued by this Tribunal on 24th of April, 1998 is made absolute. In the facts and circumstances of the case, parties are left to bear their own costs.

Submitt

(ANAND KUMAR BHATT)
Administrative Member

Decided

(J.K.KAUSHIK)
Judicial Member

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प्रतांकन सं. औ/व्या..... जबलपुर, दि.....
प्रतिविधि अनुदेशन:-
(1) सर्वियर, डॉ. विजय राम उल्लेश राज, जबलपुर
(2) विवाह विधि विभाग, जबलपुर
(3) फॉर्म विभाग, जबलपुर
(4) विवाह विधि विभाग, जबलपुर

L.S.Rayput - Ad'

S.P.Sinha - Ad'

Akhay
उप रजिस्ट्रार 14/8/03

Issued
On 14-8-03
By