

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
CIRCUIT AT INDORE
O.A. NO.497/1998

This the 1st day of September, 2003.

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)
HON'BLE SHRI J. K. KAUSHIK, MEMBER (J)

Kumari Pramod Verma D/O Kanhaiyalal Verma,
working as Typist in M O C G (Mech.
Operating, Commercial & General) under
Sr. Divisional Mechanical Engineer,
Western Railway, in the office of
Divisional Railway Manager,
Western Railway, Do-batti,
Ratlam.

... Applicant

(By Shri G.L.Gupta, Advocate)

-versus-

1. Union of India through
General Manager, Western Railway,
Churchgate, Mumbai.
2. Senior Divisional Mechanical Engineer,
Western Railway, Divisional Office,
Do-batti, Ratlam.
3. Divisional Railway Manager,
Western Railway, Do-batti,
Ratlam.

... Respondents

(By Shri Y.I.Mehta, Sr. Advocate with Shri H.Y.Mehta,
Advocate)

O R D E R (ORAL)

Hon'ble Shri V. K. Majotra, Member (A) :

Through this O.A. applicant has challenged
Annexure A-1 dated 23.10.1997 by which applicant has
been reverted from the post of Typist scale Rs.950-1500
to the post of Khalasi scale Rs.775-1025. It has been
alleged that the alleged reversion has been made without
indicating any reason and without issuing any show
cause notice to applicant.

2. The learned counsel of applicant stated that
applicant has been working on the post of Typist since

13.9.1995, i.e., for more than 18 months. Yet, respondents have reverted applicant to the post of Khalasi. The learned counsel also stated that while the cadre of Typists and clerical cadre were merged, respondents did not consider applicant's application for inclusion of his name in the list of eligible candidates dated 7.1.1997 for selection as Typist on the ground that applicant was working as Typist on ad hoc basis already. Applicant made representation against her reversion which was not considered by respondents. The learned counsel of applicant stated that applicant has a right for regularisation in the post of Typist from the day she had been working as Typist on ad hoc basis, i.e., from 13.9.1995. Applicant has sought setting aside of Annexure A-1 and direction to respondents to regularise her services on the post of Typist scale Rs.950-1500 w.e.f. 13.9.1995 with consequential benefits, like seniority.

3. On the other hand, respondents have refuted the claims of applicant. The learned counsel of respondents stated that since applicant had avenue of promotion in her parent department, i.e., electrical department, she was not eligible for being considered for regular promotion to the post of Clerk, i.e., Group 'C' in scale Rs.950-1500. Respondents took a policy decision for doing away with the post of Typist and retention of the post of Clerk. The General Manager permitted regularisation of only one ad hoc Typist vide Annexure R-1 dated 3.8.1994. However, through an oversight applicant was given ad hoc promotion as Typist scale Rs.950-1500 by an office order dated

112

13.9.1995 (Annexure R-2). This mistake was detected later on by Annexure A-11 dated 16.10.1996 and applicant was reverted to her original post. Yet again, through an oversight she was shown to have been reverted to the post carrying a scale of Rs.775-1025. A corrigendum order was issued on 28.7.1998 (Annexure R-3) as in the electrical department the scale of Rs.775-1025 is not there. Class-IV (Group 'D') in the electrical department has the minimum scale of Rs.750-940 and the next grade is Rs.800-1150. Applicant had been working/engaged in the latter grade. The learned counsel of respondents maintained that in the electrical department applicant who has been holding the substantive post of Khalasi (Class-IV/Group 'D') has avenue of promotion as indicated in Annexure R-4. As such, she could not have been continued in the post of Typist scale Rs.950-1150. However, she was placed in th scale of Rs.800-1150 and not put to any financial loss. The learned counsel of respondents also pointed out that applicant had appeared in the test held for regularisation to the post of Typist but she could not qualify and as such was reverted to the lower post.

4. We have considered the rival contentions. Vide Annexure A-5 applicant was promoted on the post of Typist scale Rs.950-1500 on ad hoc basis. She was reverted to her substantive post of Khalasi vide Annexure A-1 dated 23.10.1997. Admittedly, applicant had been promoted on ad hoc basis and the selection for the same had not been conducted by adopting due process. It was clarified in Annexure R-4 dated 13.9.1995 that ad hoc promotion shall not be considered as a basis for regular promotion and that on availability of regular

Typist she would be reverted to her substantive post. Vide Annexure A-11, respondents had notified applications from Group 'D' employees who did not have promotional avenues in their own department. Respondents have enclosed Annexure R-4 indicating avenues of promotion for Group 'C' and 'D' employees. It is found that applicant does have promotional avenues in her own department. As such in terms of Annexure A-11 she could not have been considered for regular promotion. It is found that applicant has not challenged Annexure A-11 dated 16.10.1996 whereby it was directed that employees having promotional avenues in their own departments shall not be considered for promotion. Applicant has also not filed any rejoinder to the contentions raised on behalf of respondents. As respondents have explained why applicant could not be considered for promotion in the post of Typist after the aforeslated merger, we find that applicant does not have any indefeasible right to continue on ad hoc promotion on the post of Typist in the teeth of Annexure A-11 which remains unchallenged.

5. In the light of discussion made above, we do not find any merit in the O.A. which must fail. Accordingly, the O.A. is dismissed, however, without any order as to costs.

J. K. Kaushik
(J. K. Kaushik)

Member (J)

V. K. Majotra
(V. K. Majotra)

Member (A)

/as/