

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 72 of 1998

Jabalpur, this the 26th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)
Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)

Suri S.M. Uike, S/o Shri Ram Prasad Uike, aged 42 years, R/o 3-Bungalow Colony, Qr. No. F 61-A, Railway Colony, Itarsi, Madhya Pradesh.

-APPLICANT

(By Advocate - None)

VERSUS

1. Union of India
Through Ministry of Railway,
New Delhi.
2. General Manager,
Central Railway,
Mumbai C.S.T.
3. Senior Divisional Operations Manager,
Central Railway,
Office of D.R.M. (OPTG),
Bhopal - 24 (M.P.)
4. The Divisional Railway Manager,
(Personnel) Central Railway,
Bhopal

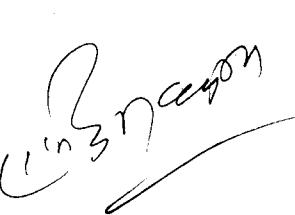
- RESPONDENTS

(By Advocate - Shri S.K. Mukherjee)

O R D E R (Oral)

By R.K. Upadhyaya, Member (Admnv.)

The applicant is aggrieved by orders dated 20.6.97 and 25.7.97 (Annexures-A-3 & A-5 respectively) by which he has been reverted to grade of Rs. 2000/- 3200. It is claimed by the applicant that these orders are malafide and void ab-initio, therefore, they should be quashed and the applicant be continued in the higher pay scale of Rs. 2375-3500.

2. It is stated by the applicant that he was promoted to the post of Transportation Inspector in the grade of Rs. 2375-3500 vide office order dated 26.3.1997 (Annexure-A-1).
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It is further stated that he received a show cause notice dated 20.6.1997 (Annexure-A-3) in which it has been stated that the competent authority has approved his reversion to the grade of Rs.2000-3200. According to the applicant this could not be said to be a show cause notice as the impugned notice itself contained order of penalty. The applicant had sent a reply dated 3.7.1997 (Annexure-A-4) to respondent no.3. The applicant was not given any reply to the representation dated 3.7.1997 (Annexure-A-4) but the order of reversion dated 25.7.1997 (Annexure-A-5) has been issued. It has been stated by the applicant that reversion to a lower grade of pay is a major penalty and the same cannot be issued without following proper procedure. Therefore, the order of reversion should be quashed.

3. The respondents have stated in their reply that the show cause notice was issued on 20.6.1997 and the representation thereon sent by the applicant was duly considered by the competent authority and was found unsatisfactory. Therefore, final order of reversion was passed on the ground of his unsuitability. The respondents have stated that the applicant was also working in the higher grade of Transportation Inspector at Itarsi and has been promoted as per order dated 26.3.1997. The conduct and the work of the applicant was not round satisfactory as can be seen from the fact that he was issued a charge-sheet (Sr-11) dated 29.5.1997. Since no reply was submitted ex parte decision was taken and increment for two years with non-cumulative effect were withheld. Again the applicant was served with S.R.11 on 2.6.1997 which was also not replied, therefore ex parte decision was taken and increment for one year was withheld. These facts directly support the conclusion regarding the inefficiency of the applicant. The respondents have further submitted that before reversion of the applicant, a notice dated 20.6.1997 (Annexure-A-3) was issued by which the applicant was informed as to why he was being considered for reversion.

Ch. N. S. Nair

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The notice dated 20.6.1997 stated as under-

* Shri Ukey was promoted and posted as ~~as~~ Itarsi in Gr Rs.2375-3500 vide DRM (P)'s Office Order No.230/97, dt. 26-3-97 but Shri Ukey is not performing the duties of TI, properly for which-

- 1) On 18.5.97, you were informed by Station Manager/Itarsi regarding your attendance in Court of Law, Bhopal under case No.431/96 but you refused to take letter for which, SF-11 was issued to you.
- 2) You failed to send the PCDO and other required information in time for which, SF-11 was issued to you.
- 3) Due to your negligible working, DSO/BPL has also issued a confidential letter to you about your day-to-day working like not attending CRS enquiry, reporting sick without information and not sending any inspection report even after two months.
- 4) Sr. DOM has fixed TI's meeting on every 2nd Friday in his Chamber but you have not attended the same.

In view of the above, you are hereby informed that the Competent authority has approved your reversion to Grade Rs.2000-3200.

You have not improved your performance. An opportunity is given to you for making representation on the Reversion as mentioned above. Representation should be submitted to the undersigned within 10 days from the date of receipt of this Notice."

The respondents have further stated that the due procedure has been observed. Attention has been invited to Explanation 1(iv) given below Rule 6 of Railway Servants (Discipline & Appeal) Rules 1968 which reads as under : -

"Explanation-

1. The following shall not amount to a penalty within the meaning of this rule, namely:

.....

(iv) reversion of a Railway servant officiating in higher Service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher Service, grade or post, or on any administrative ground unconnected with his conduct".

R. B. D. A. M.
C. B. D. A. M.

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The notice dated 20.6.1997 stated as under-

"Shri Uukey was promoted and posted as TI/ Itarsi in Gr Rs.2375-3500 vide DRM (P)'s Office Order No.230/97, dt. 26-3-97 but Shri Uukey is not performing the duties of TI, properly for which-

- 1) On 18.5.97, you were informed by Station Manager/Itarsi regarding your attendance in Court of Law, Bhopal under case No.431/96 but you refused to take letter for which, SF-11 was issued to you.
- 2) You failed to send the PCDO and other required information in time for which, SF-11 was issued to you.
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In view of the above, you are hereby informed that the Competent authority has approved your reversion to Grade Rs.2000-3200.

You have not improved your performance. An opportunity is given to you for making representation on the Reversion as mentioned above. Representation should be submitted to the undersigned within 10 days from the date of receipt of this Notice."

The respondents have further stated that the due procedure has been observed. Attention has been invited to Explanation 1(iv) given below Rule 6 of Railway Servants (Discipline & Appeal) Rules 1968 which reads as under :-

"Explanation-

1. The following shall not amount to a penalty within the meaning of this rule, namely:

.....

- (iv) reversion of a Railway servant originating in higher Service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher Service, grade or post, or on any administrative ground unconnected with his conduct".

C. B. D. A. M.

Contd....4/-

According to the respondents since the applicant was reverted to his original service, grade and post within 5 months i.e. before completion of 18 months, this cannot amount to a penalty. According to the respondents, the reversion is on account of unsuitability of the applicant for the higher grade in the interest of the administration. Therefore, this application being devoid of merit deserves to be dismissed.

4. Nobody is present on behalf of the applicant even at the second call. Even on earlier date of hearing on 17.1.2003 nobody was present on behalf of the applicant. Therefore, this application is being disposed of on the basis of material available on record, with the help of learned counsel of respondents, under Rule 15(1) of Central Administrative Tribunal (Procedure) Rules, 1987.

5. All the relevant facts for deciding the grievance of the applicant have unfortunately been not made available by the respondents, e.g. the promotion order dated 26.3.1997 (Annexure-A-1) refers to Headquarters letter dated 12.3.1997, which has not been produced. Whether the promotion order dated 26.3.1997 is a regular order of promotion or only an officiating promotion in the grade of Rs. 2375-3500 is not very clearly available on record. Similarly, the respondents in their reply have stated that "since the employee was reverted to his original service, grade and post within 5 months i.e. before completion of 18 months, this cannot amount to a penalty". The respondents have not referred to any rules regarding non-reversion of an employee after completion of 18 months of service. Unless these aspects are examined, it cannot be said whether the case of the applicant falls in that category or not. In the circumstances, we are of the view that the ends of justice would be served by directing the applicant to send a copy

of this order, along with a fresh representation, for consideration of respondent no.2 with a copy to respondents nos.3 & 4 for information, within a period of four weeks from today. If the applicant complies with our order, the respondent no.2 is directed to pass a reasoned and speaking order within a period of two months from the date of receipt of a copy of the representation along with a copy of this order, under intimation to the applicant.

6. In view of our direction in the preceding paragraph, this O.A. is disposed of without any order as to costs.

John B. Ordway

(R.K.Upadhyaya)
Member (Admnv.)

S. Raym

(Shanker Raju)
Member (Judicial)

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पृष्ठांकन सं. ओ/वर्ता..... जटपुर, दि.....
रुद्रिमेली दा. रुद्रिमेली..... जटपुर

Issued
on 1-4-03
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