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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1061/2013**
UNION OF INDIA THROUGH GENERAL MANAGER
RAILWAYS AND ORS

..... Petitioner

Through Mr. Jagjit Singh with Mr.
Ashok Singh and Mr. Preet
Singh, Advocates

versus

SRI PAL

..... Respondent

Through Mr.Vinod Diwakar with Mr.
Ravinder and Dheeraj Kaushik,
Advocates

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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12.01.2016

Union of India through General Manager, Northern Railways by way of this writ petition has challenged order dated 16th August, 2012 passed in O.A. No.194/2012.

The respondent was declared successful along with 62 others in the suitability test held on 21.06.2011 and was promoted to the post of C&W Senior Technician (provisional) vide letter dated 20.10.2011. Thereafter, vide notice dated 20.12.2011 the respondent was informed that he was inadvertently promoted as 39 Scheduled Casts candidates who

were senior to him, had to be first promoted. He was accordingly reverted to the post of Technical Grade -1 till such time vacancy in the promotional post occurred.

The aforesaid action was challenged by the respondent Sri Pal in the aforesaid O.A. By the impugned order dated 16th Aug., 2012, the following direction has been issued:

“6. we have heard the learned counsel for the parties. In our considered view, probably there must have been an inadvertent error on part of the respondents as stated by them in the reply. However, we should say, that issuing a show cause notice is not an empty formality. The very purpose of such notice is to hear the other side before any adverse action is taken. Administrative discipline demands that once a show cause notice has been issued to an employee and taken an appropriate action either rejecting or accepting his cause. At least, there should have been a formal order issued to him reverting him from the promoted post. Then the applicant would have got an opportunity to challenge the same, if he so decides. But by adopting the short-cut method of reducing the applicant's pay arbitrarily without issuing him a proper order of reversion, the respondents have violated the principle of natural justice, which is not permissible under the rules.

7. In view of the above position, we are of the firm view that the reduction of the pay of the applicant during the interregnum of promoting the applicant as C&W Senior Technician in the scale of pay of Rs.9300-34800/- with grade pay RS.4200/- vide the respondents' order dated 20.10.2011 and again promoting him to the aforesaid post vide order dated 28.03.2012 is illegal, arbitrary and against the principles of

natural justice. Therefore, we direct the respondents to restore his pay for the aforesaid period within a period of one month from the date of receipt of a copy of this order”

Mr. Jagjit Singh, learned counsel for the petitioner has accepted no orders have been passed pursuant to the aforesaid direction and states that as a matter of fact, the respondent was promoted as per the seniority as C&W Senior Technician on 28.03.2012.

Learned counsel for the respondent accepts the said factual position and states that he is not claiming seniority over his seniors but he should not be asked to refund/remit the wages/salary already paid to him.

Learned counsel for the petitioner submits that in view of the said statement, the writ petition may be disposed of as the monetary amount involved is insignificant and exiguous. Taking the said statement on record, we disposed of the present writ petition. The respondent will be bound by his statement.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

JANUARY 12, 2016/acm