

Central Administrative Tribunal  
Principal Bench, New Delhi

O.A.No.2560/2001

Hon'ble Shri M.P.Singh, Member(A)  
Hon'ble Shri Shanker Raju, Member(J)

Wednesday this the 14th day of August, 2002

1. Shri Pramod Kumar Sharma  
s/o Shri Parshade Lal Sharma  
presently working as Gangman  
under Divisional Railway Manager  
Western Railway  
Kota (Rajasthan).
  2. Shri Sibboo Lal Saini  
s/o Shri Padam Singh Saini  
Gangman, CWPI Vikram Garh ALUT  
Western Rly.
  3. Laxmi Naryan  
s/o Shri Pachya  
Gangman, CWPI Bhawani Mandi
  4. Chandra Shekhar Khari  
s/o Shri Kapil Kant Khari  
Gangman  
CWPI VMA (Kota)(WR).
  5. Rajeh Kumar Bhatnagar  
s/o Shri R.C.Bhatnagar  
Gangman  
under PWI (P.Way)  
Shamgarh.
  6. Shri Murari Lal  
s/o Shri Sukhji  
Gangman  
under CWPI Bhawani Mandi.
  7. Shri Ashok Kumar Khare  
s/o Shri Krishan Kumar Khare  
Gangman, under P.WI (P-way)  
Mahidpur.  
(By Advocates: Mr. B.S.Mainee with Ms. Meenu Mainee)  
Vs. ... Applicants
1. Union of India through  
The General Manager  
Western Railway  
Church Gate, Mumbai.
  2. The Divisional Railway Manager  
Western Railway  
Kota (Rajasthan).  
(By Advocate: Shri Rajinder Khatter) Respondents

O R D E R (Oral)

By Shri Shanker Raju, M(J):

MA for joining together is allowed.

13

2. Applicants, who are working as Gangman, have sought similar treatment as accorded to the respondents/applicants in OA by the Apex Court in SLP 17971-71A of 1993 in Union of India & Others Vs. Belal Ahmed & Others, and have further sought confirmation of temporary status with all attendant benefits and regularisation as Helpers to Ticket Collectors.

3. Briefly stated, the relevant facts are that applicants were newly engaged Volunteer Ticket Collectors (herein after called as 'VTC') in the year 1984. Applicants' services have been dispensed as a result they have filed OA 1859/91 and OA 2180/91 for reengagement as VTC and for grant of temporary status and regularisation. By an order dated 7.2.1997, the aforesaid cases, this Tribunal has directed the respondents on the basis of the decision in SLP in Belal Ahmed supra to reengage the applicants as VTC and further regularisation as per the Rules. The SLP filed against this order was rejected on 14.7.1998.

4. As the respondents have failed to comply with the directions, CP 227/99 was filed by the applicants which was disposed of on 6.3.2000 on the statement of respondents that the applicants have been reengaged as VTC and are to be absorbed in Group 'D' post. However, liberty is accorded to the applicants to approach this Court in a fresh OA. Applicants were reengaged as VTC on 26.12.1997 but were not accorded temporary status on completion of 120 days and had been paid Rs.8/- per day as per the existing rates.

14

Respondents' through their letter dated 8.3.1999 found that the applicants have not completed 120 days denied them temporary status and subsequently their services have been regularised as Gangman instead of Helper to TCs, giving rise to the present OA.

5. Learned counsel for applicants contended that applicants are either Intermediate or Matriculates or Graduates, the post of Gangman offered to them is not as per the rules, as the similar staff i.e., VTCs have been regularised as Helpers to TCs, applicants, have been meted out differential treatment without any reasonable basis, is violative of Articles 14 and 16 of the Constitution of India.

6. It is stated that in so far as temporary status is concerned, though the respondents have considered their cases, but has not found them fit as they had been found to have not completed 120 days, which is not correct as the certificate issued by the DRM clearly indicates that they had completed 120 days entitled them for temporary status and attendant benefits including pay and allowances.

7. Learned counsel for applicants further stated that in Union of India & Ors. v. Sagar Chandra Biswas & Ors, in CA 1015/95 the Apex Court by a decision dated 5.1.1995, upheld the decision of the Tribunal and in pursuance the petitioners therein have been accorded temporary status as well as regularisation in Group 'D' post as Helper to TCs. As such it is stated that the applicants have been arbitrarily discriminated for accord of benefit of

15

temporary status though they had worked for continuously 120 days and by referring to the decision of the Apex Court in Sagar Chandra Biswas supra, it is contended that finding of the Tribunal regarding accord of temporary status has not been entertained but as a special type of status, the respondents had been directed to continue the Volunteers on payment of Rs.8/- per day and further absorb them in Group "D" post. By referring to this, it is contended that the respondents have not followed the directions of the Apex Court and created within the clause by according differential treatment to the Volunteers who were parties before the Apex Court and the applicants.

9. On the other hand, Shri Rajinder Khatter, learned counsel appearing on behalf of the respondents, at the out set, took a preliminary objection of resjudicate by contending that the relief of grant of temporary status has already been a part in OA 1859/91 as well as OA 2180/91 supra which had been denied to the applicants. As such it is stated that once the cause of action and the relief was identical and was conclusively dealt with and attained finality in the earlier proceedings, applicants are estopped from claiming the same relief in subsequent proceedings.

10. On merit, it is stated that in Belal Ahmed supra, the directions were to continue VTC on an allowance at the rate of Rs.8/- per day thereafter to consider for regularisation in Group "D" post.

Applicants have been rightly regularised as Gangman in Group 'D' as they are not entitled as per their qualification for regularisation in Group 'C'.

11. In so far as the temporary status is concerned, it is stated that the same has not been allowed to the applicants as they have been treated as a special status by the Apex Court and further contended that Pramod Kumar and Others case has been dismissed by the Apex Court. It is further stated that the request for grant of temporary status has not been accorded in CP 227/99 *ibid*. It is also stated that as per IREM, there is no provision for grant of temporary status on completion of 120 days by a VTC. Learned counsel has defended his order and has stated that there is no legal infirmity in the orders passed by the respondents.

12. Learned counsel for respondents has also drawn my attention to a decision of the Apex Court in Union of India & Others Vs. Ombir Singh, CA No.5000/94 decided on 18.11.1998 wherein directions of the Tribunal to frame a Scheme to reengage and regularisation of VTC has been set-aside. The present case is some how based entirely on different footing, the decision is distinguishable and would not apply to the facts and circumstances of the present case. Moreover, learned counsel has also referred to CWP No.1252/99, Umesh Roy & Others and stated that these objections have been dismissed by the High Court on 29.7.2002 having failed to furnish a copy of its



order, it is not possible to react on the same. However, the instant case is covered by the decision of the Apex Court in Biswas and supra.

13. Shri Mainee reiterated, in the rejoinder, his pleas taken in his OA.

14. We have carefully considered the rival contentions of both the parties and perused the material on record. One of the contention of the applicant that the similar circumstance, i.e., VTCs whose cases have been allowed by the Tribunal in compliance of the directions by the Apex Court in Belal Ahmad and Sagar Chandra Biswas cases, they have been accorded temporary status and were also regularised as Helpers to TCs, the differential treatment meted out to the applicants cannot be countenanced and is violative of Articles 14 and 16 of the Constitution of India.

15. We have perused the reply of the respondents in this regard and find that no specific denial has been made that the respondents have not specifically denied these contentions and rather denied ~~from~~ the stand of the applicants. In so far as resjudicate<sup>is</sup> is concerned, we find that in CP the applicants have been accorded liberty to agitate their substantial grievance as such the matter has not been attained finality as the request for grant of temporary status was not considered in the earlier OA.

8

16. From the factual position surfaced, we are of the considered view that the claim of the applicant for regularisation in Group 'D' as Helper to TCs and for accord of temporary status and other benefits shall have to be reviewed. In the event the similar circumstance VTC in pursuance of the decision of the Apex Court have been accorded similar benefits, by not following the same in the case of the applicants, the action of the respondents would be discriminatory and violative of Articles 14 and 16 of the Constitution of India. However, this consideration shall be subject to their entitlement and eligibility and in accordance with the extant rules and instructions.

17. In the result and for the reasons recorded above, we dispose of this OA by directing the respondents to reconsider the claim of the applicants for accord of temporary status, attendant benefits, as well as for regularisation as Helpers to TCs in accordance with the rules and instructions and subject to their eligibility and fitness, if the other similar circumstance VTCs are accorded the same, the applicants are entitled for the same and be accorded the similar benefits. The aforesaid reconsideration shall be completed within a period of three months from the date of receipt of a copy of this order by passing a detailed and speaking order. No costs.

S. Raju

(Shanker Raju)  
Member(J)

M.P. Singh

(M.P. Singh)  
Member(A)

/rao/