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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.2882/2001

This the 15<sup>th</sup> day of July, 2004

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

Smt. Neelam Yadav W/O Lal Deo Singh,  
R/O A-3/268 Paschim Vihar, New Delhi,  
Office Address :  
Assistant Teacher,  
Railway Mixed Primary School, Tundla,  
Distt. Ferozabad (UP).

... Applicant

( By Ms. Raman Oberoi, Advocate )

-versus-

1. Union of India through  
Ex-Officio Principal Secretary to the  
Government of India, and Chairman,  
Railway Board, Ministry of Railways,  
Rail Bhawan, New Delhi.
2. General Manager, Northern Railway,  
Baroda House, New Delhi.
3. Divisional Railway Manager,  
Northern Railways, Allahabad (UP).
4. Smt Madhuri Mishra,  
Substitute Assistant Teacher Primary School,  
Dhobi Ghat, Northern Railways, Tundla,  
Distt. Ferozabad (UP).
5. Smt. Yasmin Mehindi,  
Assistant Teacher, Northern Railways  
Inter College, Tundla,  
Distt. Ferozabad (UP).
6. Smt. Zahida Rizvi,  
Assistant Teacher,  
Northern Railways, Bhatinda (Pb.).
7. Smt. Madhulika Sharma,  
Assistant Teacher,  
Railway Mixed Primary School,  
Northern Railways, Tundla,  
Distt. Ferozabad (UP).

... Respondents

( By Shri R.L.dhawan, Advocate )

O R D E R

The learned counsel of applicant contended that applicant had been continuously working as assistant teacher for the last over ten years and was entitled to

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regularisation of her services. She stated that vide Annexure A-9 dated 14.1.1994 respondents had granted a one-time exception for screening/regularisation of the substitute teachers who had attained temporary status. Applicant along with several others had appeared in the screening test but all the candidates, including the applicant, failed. However, applicant is entitled to regularisation of her services in the light of **State of Haryana & Ors. v. Piara Singh & Ors.**, 1992 (3) AISLJ 34 (SC). The learned counsel pointed out that in that case too ad hoc/temporary appointments of employees were continuing for several years without regularisation of their services. It was directed that State should prepare a scheme for regularisation of such employees consistent with its reservation policy so as to reduce avoidable litigation in this behalf. As soon as such a person is regularised, he should be placed below the last regularised employee in that category, class or service, as the case may be.

2. The learned counsel of respondents stated that applicant having failed in the test conducted on 14.2.1997 and being ineligible for benefits under Annexure A-9 had no right for regularisation of her services. All the substitute teachers, including the applicant, had failed in the screening test. Applicant cannot be considered for regularisation of her services unless she is qualified under the recruitment rules. She has been continuing in service on the basis of directions of this Court. She has to clear the screening test provided that she is eligible to take part in the same.

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The learned counsel further maintained that when recruitment rules are available, the ratio of the case of **Piara Singh (supra)** is not applicable to the facts of the present case. In that case, in the absence of recruitment rules, States had been asked to prepare a scheme for regularisation of ad hoc/temporary employees. In the present case, while the recruitment rules are in vogue, a one-time exception had been made for the substitute teachers for regularisation of their services by holding a screening test. Applicant cannot be given benefit of Annexure A-9 dated 14.1.1994 as she had been appointed on ad hoc basis much after 14.1.1994, i.e., on 4.8.1994. She could be considered under the recruitment rules only. She appeared in the test conducted on 14.2.1997 under the recruitment rules but failed and could not find place in the panel.

3. I have considered the arguments advanced on either side.

4. Admittedly, applicant has now been appointed as a substitute teacher on temporary basis against an available vacancy. Further it is observed that Annexure A-9 dated 14.1.1994 is not applicable in the case of the applicant as the same was applicable for screening/regularisation of the substitute teachers who had attained temporary status prior to 14.1.1994, as a one-time exception. Applicant had been appointed as a substitute teacher much after 14.1.1994, i.e., on 4.8.1994.

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5. applicant has not been able to establish that any junior to her had been accorded the benefits claimed herein. We are further of the view that the ratio of the case of Piara Singh (supra) is not applicable to the facts of the present case. Here, while the regular recruitment rules are available, regularisation of services of the employees appointed as substitute teachers etc. on temporary basis has to be considered in terms of the recruitment rules. Relaxation or exceptions are made in extraordinary circumstances as was done when Annexure A-9 was issued on 14.1.1994. Exception is not a rule. Applicant can be given a benefit only if the same is available under the rules. If she is eligible for according regularisation of her services, she has to pass through the mill under the terms and conditions of the recruitment rules. She will have to pass the screening test provided that she is eligible to appear in the test. In the earlier test held on 14.2.1997 she had failed. Failure of all the substitute teachers along with the applicant is no valid ground for giving a go bye to the rules and regularising the services of the applicant, as was done to similar cases when Annexure A-9 was issued..

6. Having regard to the above discussion, I find no merit in the present OA except that Annexure A-6 dated 8.5.2001 re-engaging the applicant as substitute teacher for a period of six months and not till her replacement by a regular incumbent was not issued in proper spirit of Tribunal's order dated 29.2.2000 in OA No.2362/1998. In the interest of justice, however, this OA is disposed of with a direction to respondents to continue the applicant

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