

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.781/2001

Tuesday, this the 6th day of November, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Sulakhan Singh
S/O Sh. Swaran Singh
Working under the Control of
Chief Administrative Officer (Construction)
Kashmere Gate
New Delhi.

(By Advocate: Shri K.K.Patel)

...Applicant

Versus

Union of India through

1. The General Manager
Northern Railway
Baroda House,
New Delhi-1.
2. Chief Administrative Officer (Construction)
Northern Railway
Head Quarter Office, Kashmere Gate
Delhi-6.
3. Divisional Railway Manager
Northern Railway, Firozpur
4. Deputy Chief Engineer (Construction)
Northern Railway
Jalendhar City
5. Senior Personnel Officer (Construction)
Northern Railway,
Kashmere Gate
Delhi

(By Advocate: Shri H.K.Gangwani)

..Respondents

O R D E R (ORAL)

Hon'ble Shri S.A.T. Rizvi:-

The applicant, who holds the substantive post of Safaiwala w.e.f. 8.7.1982 (page 57 of paper book) prays for a direction to the respondents to include his name in the list of candidates regularised in the post of Clerk-cum-Typist vide panels issued on 6.3.2000 and

6.6.2000. Non-inclusion of his name in the aforesaid panels has led to the filing of the present OA (Annexure P-1 colly.).

2. The facts of the case, briefly stated, are as the following. IREM Para 174 (B) lays down the procedure for filling up the post of Office Clerk/Material Checking Clerk (MCC). According to the said paragraph, 33.1/3% vacancies of Office Clerk/MCC are to be filled by promotion by selection of specified Group 'D' staff. The applicant who is an aspirant for promotion under the aforesaid provision was granted officiating allowance for the post of MCC for the period from 11.7.1986 to 1.12.1986. On 14.2.1989 he was put to work as adhoc Typist purely on temporary basis which did not confer on him any right to claim seniority for promotion over his seniors. With effect from 1.8.1991 he was put to work as adhoc MCC purely on temporary basis. General Manager (P), Northern Railway issued instructions in 1987 to the effect that all the staff working continuously as MCC on adhoc basis for a period of three years or more were required to be regularised on the basis of their service records and by observing the relevant instructions. Since the applicant had not completed three years of service as adhoc MCC by the prescribed date there was no question of his candidature being considered for regularisation on the basis of the aforesaid instructions of 1987. In December, 1991, the General Manager (P), Northern Railway, again issued instructions to the same effect. On this occasion also the posts of Office Clerk were to be filled by way of regularisation against the

(3)

aforesaid promotion quota of 33.1/3%. Under the 1991 instructions, those who had completed three years of adhoc service as MCC by 31.12.1991 were alone to be considered for regularisation as above. After December 1991, the General Manager (P) has not issued any fresh instructions on the subject and accordingly there would be no question of considering those who might have completed three years or more after December 1991 for regularisation as Office Clerk.

3. The learned counsel appearing on behalf of the respondents has categorically asserted that for the purpose of December 1991 instructions the period of adhoc working as MCC in respect of the applicant would count from 1.8.1991. That being so, the applicant who had obviously failed to complete three years of service as adhoc MCC by December, 1991, his claim for regularisation could not be considered.

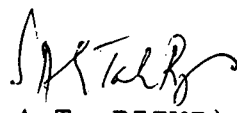
4. The learned counsel appearing on behalf of the applicant has drawn our attention to several papers placed on the paper book which would go to show that the claim of the applicant has remained under consideration irrespective of the fact that he had, in the manner argued by the learned counsel for the respondents, not completed three years period by December, 1991. On page 58 of the paper book, for instance, there is a letter which would at once show that the candidature of the applicant was under consideration for the purpose of regularisation as MCC/Clerk in 1998. On page 55 of the paper book, we find a Notice issued in April 1997 fixing

(4)

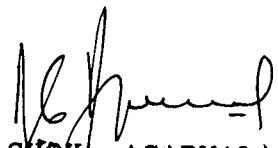
the pay of the applicant in the pay grade of Rs.950-1500/- applicable to MCC. The same shows that the applicant has, even after 30.11.1986, continued to work in the same pay grade right upto July 1996. The learned counsel appearing on behalf of the applicant states at the Bar that the applicant is still working in the same pay grade. From the aforesaid Notice of April 1987 (page 55 of paper book) it also transpires that the applicant's pay in the pay grade of Rs.950-1500 was fixed in his capacity as MCC on 1.12.1986 and thereafter regular increments have been granted in that very pay grade upto July 1996. The applicant, according to his counsel, continues to receive increments as hitherto.

5. Placing reliance on the contents of the aforesaid Notice, we are convinced that the applicant had completed three years of the requisite service by December 1991 and was, therefore, eligible for being considered for regularisation as MCC. In the result the OA succeeds. The respondents are directed to consider the claim of the applicant for regularisation as MCC expeditiously and in a maximum period of three months from the date of receipt of a copy of this order.

6. The OA is disposed of in the aforstated terms. No costs.


(S.A.T. RIZVI)
MEMBER (A)

/pkr/


(ASHOK AGARWAL)
CHAIRMAN