

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1041/99

New Delhi: this the 15th day of February, 2001

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Narendra Kumar,

S/o Birhama Saroop,

Salesman, Northern Railway,

Consumer Cooperative Store,

Zonal Training School,

Chandausi (UP)

.....Applicant.

(By Advocate: Shri G.D. Bhandari)

Versus

Union of India
through

1. The General Manager,
Northern Railway Hqs. Office,
Baroda House,
New Delhi.

2. Divisional Railway Manager,
Northern Railway,
Moradabad.

.....Respondents.

(By Advocate: Shri R.L. Dhanwan)

ORDER

S.R. Adige, VC(A):

Applicant, who is a Salesman in the Northern Railway, Consumer Cooperative Store, Zonal Training School, Chandausi (UP), seek regularisation in a Group 'D' post after screening and assignment of seniority with effect from the date his juniors were regularised with consequential benefits.

2. By Railway Board's letter dated 26.8.77 (Annexure-A-2) staff of Cooperative Societies, canteens, Commissioned Bearers, Vendors (of Deptt. Catering) etc. have been made eligible for regular absorption in Class IV along with Casual Labourer/Substitutes, after eligible casual labourer and substitutes have been considered. This has been confirmed in Railway Board's

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subsequent letter dated 21.8.84 (Annexure-A-2A) and dated 19.7.88 (Annexure-A-3).

3. By CAT Allahabad Bench order dated 13.10.95 in OA No. 579/88 K.P. Singh & Ors. Vs. G.M. Northern Railway & Ors. those applicants who were working as Casual worker in Railway Employees Cooperative Consumer Store, Northern Railway were held entitled to be considered in their own turn for screening and regularisation of service.

4. Respondents' counsel Shri Dhawan has contended that the OA is hit by limitation, lack of jurisdiction, and is also fit to be dismissed on merits, as applicant is not an employee of railway administration, but of a Consumer Co-operative Store which is a separate body having its own bylaws, whose employees are appointed by the Secretary of the Societies and not by Railway Admn. It is also stated that the aforesaid Consumer Store closed down in 1998 and applicant is no longer its employee. In this connection Shri Dhawan also relied upon CAT PB order dated 5.2.99 in OA No. 801/98 Ramvir & Ors. Vs. Secretary, Ministry of Railways & Ors.

5. We have considered the matter carefully.

6. Admittedly the Northern Railway Consumer Cooperative Store Chandausi is a registered Cooperative Society as its bylaws (copy taken on record) makes clear. In very similar circumstances K.P. Singh & Ors (supra) were held entitled to be considered in their turn for screening and regularisation of services, and we are satisfied that the aforesaid order, which has not been

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shown to us to have been stayed, modified or set aside would be applicable in the present case also. Non-consideration for screening when he is entitled to be considered, gives applicant a cause of action which is not defeated by limitation, in the facts and circumstances of this case, and if as Shri Dhawan contends that the Zonal Training School is directly controlled by Hqs. office (which is denied by Shri Bhandari) the assertion that the claim is hit by lack of jurisdiction is also not tenable. Further Ramvir's case (supra) has not noticed the CAT Allahabad Bench order in K.P. Singh's case (supra) nor indeed respondents' own letters dated 26.8.77, 21.8.84 and 19.7.88 specifically directing that staff of Cooperative Societies could be considered for regular absorption in Class IV. Indeed Ramvir & Ors. were not working in a Cooperative Store but in a Canteen. Hence the ruling in Ramvir's case (supra) would not be applicable to the facts and circumstances of the present case.

7. Under the circumstance, this OA succeeds and is allowed to the extent that applicant's claim for screening and regularisation of services should be considered strictly in his own turn and in accordance with law. No costs.

A. Veda Valli
(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A)

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