

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 865/99
OA No. 1117/99

New Delhi this the 26th day of November 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mrs. Shanta Shastry, Member (A)

OA No. 865/99

1. Shri Kajod
S/o Shri Kana,
Railway Tent in Sarai Rohilla,
Delhi.
2. Shri Deva
S/o Shri Girdhari,
R/o Railway Tent Sarai Rohilla,
Delhi.

...Applicants

Versus

1. The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Chief Administrative Officer/Construction
Northern Railway,
Kashmere Gate, Delhi-110006; and
3. The DIvisional Railway Manager,
Delhi Division, Northern Railway,
Estate Entry Road,
New Delhi.

...Respondents

OA No. 1117/99

Suraj Mani
S/o Shri Brahm Deen,
Railway Tent in Sarai Rohilla,
Delhi.

...Applicant

Versus

1. The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Chief Administrative Officer/Construction
Northern Railway,
Kashmere Gate, Delhi-110006; and
3. The DIvisional Railway Manager,
Delhi Division, Northern Railway,
Estate Entry Road,
New Delhi.

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(By Advocate: Shri S.N. Shukla, counsel for
applicant
Shri R.P. Aggarwal, counsel for
respondents)

(11)

ORDER (Oral)

By Reddy, J. -

Heard the counsel for the applicant and the respondents.

2. The applicants impugn the order dated 2.2.99 in both the above matters. Hence we are taking up the matter for disposal by a common order.

3. We are giving the facts in OA No. 865/99;

3.1 The applicant was appointed as a casual Mate on 16.8.1979 in Shamli within the Delhi Division of Northern Railway and after completion of six months continuous service as a casual Mate he was paid the scale of Mate, which is revised to Rs. 3050-4590. The casual Mate is a Group-C post. It is the case of the applicant that the Mates are skilled employees in the Railways. In the impugned order the applicant, alongwith others who were found surplus staff, have been transferred in the unit of the Dy. Chief Engineer, Northern Railway where it was stated that they hold lien in their substantive post of Gangman. Pending the OA, the applicants have been regularised in Group-D and the applicants amended the OA, challenging the order of regularisation in Group-D. The grievance of the applicant is that the impugned order is effect

reverts the applicants on the post of Group-C to Group-D. It is contended by the learned counsel for applicants that under Rule-2007 (3) of the IREM Vol-II the Casual labour working in semi-skilled and highly skilled categories and continue to work for a long period as casual employees are entitled to be regularly appointed against direct recruit quota.

If they have regularised and posted as Gangman which is a Group-D post, they will lose the benefit of the rule for direct recruitment in Group-C post. Learned counsel for respondents, however, submits that Rule-2007 sub rule-3 has no application to the applicants as Mates are not skilled categories of employees and that they are entitled to be promoted as Mates as per the seniority subject to the availability of the posts.

4. We have considered the arguments carefully. Admittedly, the applicants have been working as Mates for a long time drawing the salary of Mates. But, unless they are either appointed by promotion or by direct recruitment as Mates they cannot hold the post of Mates in a regular capacity. It is not in dispute that they were not appointed as Mates but they remain as casual employees. In the impugned order it is clearly stated that the applicants have been found surplus and hence they have been transferred to their substantive post of Gangman. It cannot, therefore, be said that the impugned order was in effect an order of reversion.

CA

5. Under Rule-2007 sub-rule-3, casual labour who have been working since long time in the skilled and semi-skilled posts are entitled for absorption in regular vacancies provided they possess the requisite qualifications, to the extent of 25% of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. The short question, therefore, is whether the post of Mate is skilled or semi-skilled. This rule will have application only if the posts in which the applicants are working, ^{are} skilled or semi-skilled posts.

6. In the counter affidavit it is clearly stated that the post of Mates is not a skilled/semi-skilled post. Though the applicants stated that these posts are skilled posts, no material is brought to our attention to establish the plea that the said posts are skilled or semi-skilled. As per P.S. No. 8203, Railway Board's letter dated 13.11.82, the category of semi-skilled posts are enumerated but the post of Mates are significantly absent. On the other hand Rule-181 of IREM Vol-I the post of Mates is shown in the Civil Engineering Department. It states that the Trolley men, gate-men and chowkidars should be grouped with gang-men and be eligible for promotion as Keymen and Mates. Thus it appears that Mates are unskilled people for which posts only Trolley men, gate-men and chowkidars are entitled to be promoted. As the applicants, have failed to establish that the Mates are skilled or semi-skilled employees in the

Railways, Rule-2007(3) has no application to the Mates. Moreover in view of Rule-181 the post of Mates appears to be a promotion post. In the case of Union of India and another Vs. Moti Lal and Others (1996) 33 ATC 304 the Supreme court held that casual mates although continued as such for a considerable period and thereby acquiring temporary status, are not ipso facto entitled to regularisation. Learned counsel for applicant, however, relies upon the V.M. Chandra Vs. Union of India 1999 (4) SLR 332 in this case Supreme Court holding that the petitioners therein have been engaged as Technical Mate for a long time and fully qualified for absorption directed that they should be absorbed as skilled Artisan in Grade-III against available posts in respect of direct recruitment quota. This case relates to the post of Technical mates but we are now concerned with Mates. It is also not shown how the applicants are educationally qualified for absorption against the direct recruitment quota. In the circumstances this decision has no application in the facts of the case. The other contentions raised in this OA have been dealt with in OA No. 497/99 dated 17.9.99 Punnu Swami & Ors. Vs. G.M. Northern Railway & Ors. Hence we need not deal with the same in this case.

7. The OAs are accordingly dismissed. No costs.

Shanta S.
(Mrs. Shanta Shastry)
Member (A)

Om Rajagopal Reddy
(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.