

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2397/1999

New Delhi this the 23rd day of October, 2001.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Hari Shanker S/o Sh. Ramjilal,
R/o 9/3294-A, Dharam Pura,
Gali No.7, Guru Dwara Wali
Gandhi Natgar, Delhi-31.

-Applicant

(By Advocate Mrs. Vipin Gupta)

-Versus-

Union of India through:

1. Chairman, Railway Board,
Rail Bhawan, New Delhi.
2. General Manager, Central Railway,
CST, Mumbai.
3. DRM, Jhansi Division, Jhansi.
4. Executive Engineer (Constn.),
Central Railway, Faridabad.
5. Ram Dayal S/o Kishori Lal,
Carpenter (Constn.)
C/o IOW (Maintenance),
Faridabad. (Haryana)

-Respondents

(By Advocate Shri V.S.R. Krishna)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the learned counsel for the parties.

2. The applicant had worked as casual labour in the Railway and has been working as a temporary carpenter III. He was conferred temporary status and thereafter was brought on the construction Division of the Railway and has been working there since 1984 as carpenter III. The applicant has been offered a Group 'D' post of Gangman for the purpose of regularisation on 20.2.97 but the same has not been accepted by him. The applicant continues as a temporary carpenter. His claim is that having worked for

more than 15 years he is yet to be regularised in Group III post as carpenter and has sought arrears of pay etc. and promotion.

3. On the other hand strongly rebutting the contentions of the applicant, the learned counsel for the respondents stated that in the decision of the Full Bench in Ram Lubhaya v. Union of India the reference has been answered in the negative by observing that if a Railway servant is taken on a higher post in construction Division he would not have any claim for regularisation either in the parent department on the same post or in the construction division. The only remedy before him is to go back to his parent cadre and to wait for his regularisation and promotion as the lien after acquiring of temporary status is retained by the Railway servant at his parent posting. The learned counsel for the respondents further stated that though the applicant in 1997 has been offered Group 'D' post of Gangman for the purpose of regularisation but the same was not materialised as according to the applicant the same has not been served on him. It is also stated that the Group 'C' post is a selection post and is to be filled up as per para 2005 of IREM Vol.II and that casual labour having temporary status will not be brought on permanent regular establishment until and unless they are selected through the regular selection board in Group 'D' post. The learned counsel for the respondents placing reliance on a decision of the Apex Court in Ram Kumar v. Union of India, 1988 SCC 329 contended that the casual labour is not holder of a civil post. In this view of the matter it is stated that the action of the respondents by not regularising the services of the applicant cannot be found fault with.

4. Having regard to the rival contentions of the parties though I am not agreeable to the contention of the applicant that having worked since 1984 as carpenter III in Group 'C' post he has any right to be regularised against the same. As the applicant is only a casual labour having temporary status, he is to be first accorded regularisation in Group 'D' and thereafter by way of promotion under the recruitment rules he has a right to be promoted and regularised in Group 'C'. The applicant who has been taken on ad hoc basis on work requirement as Group 'C' to the post of carpenter III will not bestow a claim on him or any vested right to claim regularisation as held by the Full Bench in Ram Lubhaya's case. The applicant who has been offered the post of Gangman in Group 'D' in 1997, which according to him could not be served on him is only entitled for consideration against Group 'D' post of Gangman and further regularisation and to earn promotion in his parent cadre. In this view of the matter ends of justice would be duly met if the respondents revive their offer by placing the applicant in Group 'D' post as Gangman and further regularisation w.e.f. 9.2.97. We order accordingly. The applicant shall also be entitled to all the consequential benefits thereof. The OA is disposed of, as above, but without any order as to costs.

S. Raju

(Shanker Raju)
Member (J)

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