

Central Administrative Tribunal, Principal Bench

Original Application No.1829 of 1998

New Delhi, this the 7th day of September, 2000

Hon'ble Mr.Kuldeep Singh, Member(Judicial)
Hon'ble Mrs. Shanta Shastry, Member (Admnv)

Surender Kumar, S/o Shri Chotu Ram, r/o 10-B
3, Railway Flats, Ashok Vihar, Phase-3,
Delhi. - Applicant

(By Advocate Shri M.K.Bhardwaj)

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The General Manager (P), Northern Railway, Headquarters Office, Kashmere Gate, Delhi.
3. The Chief Administrative Officer/ Const. Northern Railway, Headquarters Office, Kashmere Gate, Delhi.
4. The Sr.Elect.Engineer/ C/GC, Northern Railway, Shivaji Bridge, New Delhi. - Respondents

(By Advocate Shri B.S.Jain)

O R D E R

By Mrs.Shanta Shastry, Member (Admnv)-

The applicant in this case has assailed an order dated 9.9.1988 issued by respondent 3 and the letter dated 21/24.8.1988 issued by respondent 2 and has prayed that he should not be reverted from the post of Material Checking Clerk (for short 'MCC') which he post ^{the} is holding on adhoc basis; and to regularise him as MCC/ Office Clerk with all consequential benefits.

2. The applicant was initially appointed as Electrical Stores Khalasi with effect from 25.7.1981 in the Northern Railway and was posted under the Senior Electrical Engineer Construction, Shivaji Bridge, New Delhi. In the year 1984, the respondents started utilising the services of the applicant as MCC in Electrical Stores at Kashmere Gate Office, New Delhi.

In January 1992, the applicant made a representation to the respondents requesting them to grant him the benefits of the post of MCC as per rules. His application was forwarded to the competent authority. The same was considered. The applicant was granted the pay for the post on which he was working since 1984 and he was given adhoc promotion as MCC on 26.4.93.

3. It is the contention of the applicant that it was decided by the General Managers of the Railways in the PNM held on 8.5.1987 that all those staff who were working continuously as MCCs on adhoc basis for a period of three years or more, may be regularised on the basis of their service records. Accordingly, most of Class-IV staff working as MCC on adhoc basis were regularised but the applicant was not given the benefit of this decision. Some of other such Class-IV staff who were not given the benefit of the decision filed OAs. Nos.1125/1989 and 1395/1992 before this Tribunal claiming regularisation on completion of their three years of adhoc service as MCCs. The OAs were allowed by the Tribunal. It is the plea of the applicant that he should also have been granted the benefit of the said decisions. The applicant has referred to another meeting held at the General Manager's level on 19/20.12.1996 wherein it was decided that the MCCs working for more than three years after 7-8.5.1987 should be regularised against promotee quota by the respective Divisions. He has also referred to letters dated 3.1.1997 as well as 13.2.1997 where the decision of the General Manager was communicated to all concerned for information and necessary action. Another letter

was issued on 1.10.1997 in which reference was made to the office letter dated 30.12.1991 wherein it was provided that such MCCs who had completed three years service should be regularised. The applicant is aggrieved that he was not given the benefit of any of these decisions though he has been working as MCC much before 1987 i.e. from the year 1984. Now, the respondents have issued the orders dated 9.9.1998 whereby respondent no.3 has been directed to revert all such MCCs who had not completed three years service as on 31.12.1991. The learned counsel for the applicant submits that the view taken by the respondents for not regularising the applicant is contrary to the judicial view taken by this Tribunal in the matter of B.R.Rahi & others Vs. Union of India and others, ATJ 1995 (1) 67, as well as in other OAs already cited, and the decision of this Tribunal in the matter of Kiran Kishore Vs. Union of India, OA 1696/95 decided on 13.11.1995.

4. The learned counsel for the respondents submits that the applicant was promoted as MCC on adhoc basis only with effect from 26.4.1993 and not with effect from 1984 as alleged by him and since he had not completed three years as MCC as on 31.12.1991, the applicant has no case.

5. Heard both the learned counsel of the applicant as well as the respondents. We have also perused the judgments cited by the applicant.

6. It is very clear that the applicant was promoted on adhoc basis only from 26.4.1993. The applicant has referred to two letters dated 14.10.1992 and 9.1.1992 (Annexures-A-8 & A-9 respectively) from the respondents wherein it has been mentioned that the

applicant was being utilised as MCC/ Clerk in Electrical Stores at Kashmere Gate Office since 1984 and he may be given adhoc promotion as MCC/Clerk. It is evident from these letters also that till the date of these letters the applicant had not been promoted on adhoc basis as MCC and only his services were being utilised as MCC. The original letter of 11.2.1991 (Annexure-A-6) whereby a decision to regularise those MCCs who were working on adhoc basis for more than three years in construction organisation was taken, as well as the subsequent orders cited by the applicant, all referred to the MCCs who were working as adhoc MCCs. The applicant's case, therefore, is distinguishable from those the applicants in the various OAs decided by this Tribunal. In all those OAs the applicants had already been promoted on adhoc basis as MCCs and had been so working for more than three years prior to 31.12.1991. Mere utilisation of the service against the post of MCC cannot be equated with adhoc functioning, unless the orders to that effect are issued. In the applicant's case any such order is absent till 26.4.1993 when he was formally promoted on adhoc basis. This being so, the applicant's case is not supported by any of the decisions of this Tribunal. We cannot, therefore, grant any relief as prayed for by the applicant.

7. In the result, the OA is dismissed, however, without any order as to costs.

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

Kuldeep S
(Kuldeep Singh)
Member (Judicial)