

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 398/98

New Delhi this the 12th day of September, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman
Hon'ble Mr. S.T. Rizvi, Member (Admnv)

Jai Kishan Prashad ...Applicant

(By Advocate Mrs. Meenu Mainee)

-Versus-

Union of India & Others ...Respondents

(By Shri O.P. Kshtariya)

1. To be referred to the Reporter or not? YES/~~NO~~

2. To be circulated to other Benches of
the Tribunal? ~~YES/NO~~

CR
(V. Rajagopala Reddy)
Vice-Chairman (J)

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 398/98

New Delhi this the 12th day of September, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

Shri Jai Kishan Prashad,
S/o Shri Ram Lakhan Prashad,
R/o 7-B/2, Wizerpur Railway Colony,
Assoe Vihar, New Delhi.

..Applicant

(By Advocate: Mrs. Meenu Mainee)

Versus

Union of India, through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Chief Administrative Officer (Constrn),
Northern Railway,
Kashmere Gate,
Delhi.
3. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
4. The Dy. Chief Electrical Engineer (Constrn.),
Northern Railway,
Divl. Rly. Manager's Office,
State Entry Road,
New Delhi.

...Respondents

(By Advocate: Shri O.P. Kshtriy)

ORDER (Oral)

By Mr. Justice V. Rajagoapala Reddy, VC (J)

Heard the counsel for the applicant and the respondents.

2. The applicant seeks to be regularised as Driver in the open line. He submits that he was engaged as Casual Labour in 1975 and thereafter regularised as a Mali Khalasi in 1980 in the office of Northern Railway, New Delhi. He was thereafter

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transferred to Construction Organisation in 1980 and in that organisation he was subjected to trade test and promoted to the post of Vehicle Driver in the scale of Rs. 260-400 and in 1984, to Highly Skilled Vehicle Driver in the Grade of Rs. 330-480. Though he made several representations for regularisation as Driver in the revised grade of Rs. 950-1500 as he has been working since 1981, the respondents had not responded. The present OA is, therefore, filed for regularisation as Driver in the open line at Delhi and place his name in the seniority list of drivers and also consider him for further promotion depending upon inter-se-seniority.

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3. Respondents do not deny that he has been regularised as Mali Khalasi in 1980 and thereafter on his deputation to the Construction Organisation, he got further promotions as Driver on a higher grade, but it is stated that all the promotions were made only on ad hoc basis. The applicant had not applied for trade testing in response to the advertisements made by the Railways, to the post of Driver in the open line and hence he was not considered for promotion as Driver in the open line and is, therefore, not entitled for regularisation in the post of Driver. As and when he applies for the said post of Driver he will be considered for promotion in accordance with the seniority in Group-D in the post of Khalasi.

4. Having given serious consideration to the contentions raised by the learned counsel for the applicant and the respondents, we find no substance in

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the OA. Admittedly, the applicant was working as Khalasi on regular basis in the open line and while on deputation to the Construction Organisation, he got promotion as Driver in view of the paucity of the employees on ad hoc basis. Such promotions made on ad hoc basis will not entitle him for consideration for appointment on regular basis as Driver. Driver is a Group-C post whereas the applicant has been regularised only in Group-D, unless he is considered for promotion as per rules he gets no right for regularisation in Group 'C'. Since the respondents issued advertisements vide Annexures R.1 and R.2 and public notice was made calling applications for trade testing in the post of Driver, if the applicant was really re-interested for promotion in the open line as Driver, he should have applied for such trade test. The applicant, therefore, cannot also say that he was not aware of the trade testing in the open line and hence he could not appear.

5. Learned counsel for the applicant relies upon State of West Bengal and Ors Vs. Aghore Nath Dey and Ors 1993 (2) ATJ 156. In this case it was held that ad hoc appointments not made in accordance with the rules though have been extended periodically, the period of ad hoc service cannot be counted for the purpose of seniority. This decision will not come to the aid of the applicant, as it was not shown that his ad hoc promotion was as per rules. In T. Vijayan and Ors. Vs. Divisional Railway Manager and Ors JT 2000 (4) SC 196, which has been relied upon by the learned counsel for the applicant, it was found, therein that ad hoc promotion was permissible under the Rules and

respondents 4 to 143 in this case were promoted on ad hoc basis in the exigencies of service, pending regular selection. Their entire period of ad hoc service would have to be counted towards seniority. It was found that respondents 4 to 143 were duly selected and their services were also regularised with effect from 16.12.1991 by order dated 18.1.1992. Thus, from the facts of that case, the court found that the ad hoc employees were entitled for counting the ad hoc period of service. In the instant case, these facts are not relevant. The applicants did not participate in the process of selection and their services were not regularised subsequently as Driver. This judgment will not come to the aid of the applicant. Learned counsel lastly cited State of Haryana and Others Vs. Piara Singh and Others 1992 SCSLJ 456 wherein certain guidelines have been issued for regularisation of ad hoc employees. This case has no application to the facts of the present case as they do not fall within the guidelines issued by the Supreme Court.

6. In the circumstances, we do not find any merit in the OA. The OA is, therefore, dismissed with cost of Rs. 2000/-.

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(S.A.T. Rizvi)
Member (A)

cc.

Andhra Pradesh
(V. Rajagopala Reddy)
Vice-Chairman (J)