

Central Administrative Tribunal
Principal Bench: New Delhi

(10)

OA No. 1212/95

New Delhi this the 28th day of September 1999

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

Bikram Ram
S/o Shri Khazana Ram
C/o Dy. Chief Engineer (Construction)
Northern Railway, Bhatinda

...Applicant
(By Advocate: Shri U. Srivastava)

Versus

1. Union of India through G.M.(P)
Northern Railway, Baroda House,
New Delhi.
2. The Chief Administrative Officer (Court)
Northern Railway, Kashmere Gate,
Delhi-6.
3. Dy. Chief Engineer (Court)
Northern Railway,
Bhatinda.

...Respondents
(By Advocate: Shri Rajeev Bansal)

ORDER (Oral)

By Reddy, J.-

Heard the counsel for applicant and the
respondents.

2. The applicant was appointed as Gangman
in the Northern Railway on 10.8.79. Subsequently
he was promoted on 11.5.81, on adhoc basis as
Material Checking Clerk (for short MCC). He was
subsequently regularised, by order dated 21.12.92,
as Material Checking Clerk with effect from the
date of issue of the panel alongwith number of
other employees who have been promoted on adhoc
basis. The grievance of the applicant is that he
ought to have been regularised with effect from the

V&B

date of the initial appointment on adhoc basis i.e. from 11.5.81. Learned counsel relies^{on} the judgment of Principal Bench of the Tribunal in OA-1395/92 where it was held that his seniority to be given taking into consideration the entire period of continuous service on adhoc basis as MCC within their quota.

3. In the counter filed by the respondents it was stated that the decision in OA-1395/92 is not applicable to the facts of the present case. An objection was also taken that the OA was barred by limitation.

4. In OA-1395/92 the Principal Bench has considered the question of regularisation/seniority to be given to the persons who have been regularised in the post of MCC after they have been working for a number of years as such on adhoc basis. The grievance of the applicant in the above OA was also the same as is made out here. The Principal Bench had in its order dated 30.7.93, following the judgment of the Principal Bench in OA-1125/99 which was decided on 4.9.90 reported in CSJ 1990 (3) P. 294, held that the employees who have been working as MCC are entitled to be given the seniority w.e.f. the initial promotion as MCC on adhoc basis. It is stated by the applicant that several clerks who have been appointed in the same division and also in other divisions are also getting the benefit of the judgment. Agreeing with the decision of the Principal Bench, we hold that the applicant is entitled for its benefit.



5. We are not prepared to throw out the case on the ground of limitation at this stage. The OA was admitted in 1995. The judgment in OA 1395/92 was delivered on 30.7.93. Immediately thereafter the applicant filed a representation to get the benefit of the judgment to him also. But the respondents have not disposed of the representation which compelled him to file the OA in 1994. The judgment in OA-1395/92 has also declared that the benefit of the judgment should be given to all the MCCs. In the circumstances, we are of the view that the OA is not hit by limitation under Section-21 of the Administrative Tribunal Act.

6. The OA is accordingly allowed and respondents are directed to give the benefit of seniority to the applicant w.e.f. 11.5.81 in the post of MCC. No costs.

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

cc.

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