

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-663/95

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New Delhi this the 13th day of July, 1998.

HON'BLE SH. T.N. BHAT, MEMBER(J)
HON'BLE SH. S.P. BISWAS, MEMBER(A)

Smt. Kiran Bala,
W/o Sh. Ashwani Kapoor,
R/o D/59, East Chander Nagar,
Delhi.

Applicant

(through Sh. B.S. Mainee, advocate)

versus

1. Union of India through
the Secretary,
Ministry of Railways,
Railway Board,
New Delhi.
2. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
3. The Divl. Railway Manager,
Northern Railway,
Ferozpur Cantt.

Respondents

(through Sh. P.S. Mahendru, advocate)

O R D E R

Hon'ble Sh. S.P. Biswas, Member(A)

The applicant is aggrieved by Annexures A-1 and A-2 communications dated 6.9.94 and 13.9.94, respectively. By Annexure A-1, she has been intimated that her claim for absorption as Mobile Booking Clerk (MBC for short) is not tenable as she had worked as Typist/ Enquiry-cum-Reservation Clerk. By Annexure A-2, the denial of the reliefs claimed by the applicant has been made more explicit by indicating that the re-engagement of persons, who rendered services as Enquiry-cum-Reservation Clerk (E & RC for short) are not covered under the instructions dated 6.2.92 issued by the Railway Headquarters. Consequently, the applicant seeks

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✓ issuance of directions to respondents to engage her as MBC in a similar manner in which her colleagues in the case of Ms. Veena Kumari and Others have been engaged. She has also prayed for relief in terms of getting temporary status after completion of four months service.

The applicant's claims are based on instructions of the Railway Board contained in their circular dated 6.2.90 which envisages re-engagement of the officials earlier engaged by the Railways pursuant to August 1973 Scheme. As per Board's order dated 6.2.90, such employees who were discontinued as a result of Board's letter dated 17.11.96 ought to be engaged as MBC as and when they approach Railway Administration. The applicant would say that she had accordingly submitted her representation dated 15.7.92 (Annexure A-8) but the reliefs were denied to her unjustifiably.

The applicant would also base her claim on the strength of judgement of the Apex Court in the case of Amrit Lal Berry Vs. Collector of Central Excise, 1975 (4) SC 714 wherein it has been held that once a party had obtained a declaration from the Court of law, others placed in similar circumstances can rely upon the sense of responsibility of the respondents to extend similar benefits to those identically placed.

The respondents have opposed the claims on the basis that she has not worked as MBC and that only MBSc are eligible for re-engagement. Since the applicant had worked only as F & RC at Jammu Tawi, she cannot claim the benefit, otherwise applicable to the MBCs.

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We find that the request of the applicant has been turned down on the ground that the scheme of MBCs is not applicable to those who had worked as E & RC/Announcers. Admittedly, this is not a case which is hit by limitation because of Annexures A-1 and Annexure A-2 Communications. We are to determine only two issues in this OA. They are as under:-

- i) Whether the benefits of August 1973 Scheme or Railway Board's order dated 6.2.90 (extended subsequently upto 30.9.92) is applicable only to those designated as MBCs during the course of their engagements while clearing the summer rush or also to others designated as E & RC and Announcers etc. etc. (other than MBCs) engaged for the purpose of performing duties connected with the clearance/handling of increasing passenger traffic?
- ii) Whether those discontinued in normal course well before 17.11.96 would get covered under the benefits of Railway Board's dated 6.2.90.?

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All the relevant issues/ controversies concerning such employees have been examined in details by this Tribunal in OA 3053/91 (in the case of D C Yadav Vs. Union of India & Others) decided on 9.7.1998. In the background of the decisions in the aforesaid OA, as at paras 8 (a) and 12 therein, this OA merits consideration.

In the result, the OA is allowed with the following directions:-

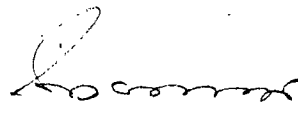
- i) The applicant should be reengaged as Enquiry-cum-Reservation Clerk (or similarly such a position presently prevalent) within a period of 3 months from the date of receipt of a certified copy of this order.
- (ii) The applicant's claim for temporary status or regularisation shall be governed by rules/regulations on the subject and the instructions available in the original Scheme.
- (iii) Services rendered earlier by the applicant shall also be counted for the purpose of commuting the required length of service while considering him for absorption/regularisation.

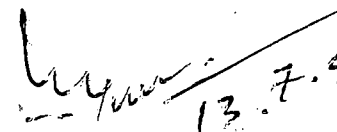
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- (iv) Persons engaged in similar positions after 17.11.86 would not be entitled to claim for such regularisation.
- (v) Applicant who might have become over-aged now shall be given relaxation in age for the purpose of re-engagement to avoid hardship.
- (vi) There shall be no order as to costs.


(S. P. BISWAS)
MEMBER(A)


13.7.98
(T.N. BHAT)
MEMBER(J)

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