

Central Administrative Tribunal
Principal Bench: New Delhi

(16)

OA No. 2541/96
OA No. 2671/96

New Delhi this the 30th day of March 2000

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V.K. Majotra, Member (A)

1. Shri Pritpal Singh
S/o Shri Jeevan Singh
Welder
Under Dy. Chief Engineer (Constn.)
Northern Railway
Chandigarh.
2. Shri Shiv Ram
S/o Shri Ram Prasad
Mason
Under Dy. Chief Engineer (Const.)
Northern Railway
Chandigarh

...Applicants

Versus

Union of India: through

1. The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Chief Administrative Officer
Northern Railway
Kashmeri Gate, Delhi.
3. The Dy. Chief Engineer (Constn.)
Northern Railway, Chandigarh
4. The Divisional Railway Manager
Northern Railway, Ambala Cantt.

...Respondents

OA-2671/96

Shri Syed Mazhar Hussain,
S/o late Shri Shakir Hussain,
Diesel Mechanic
Under Divisional Mech. Engineer (Diesel),
Central Railway, Agra Cantt.

...Applicant

Versus

Union of India through

1. The General Manager,
Central Railway,
Bombay Vt.

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2. The Divisional Railway Manager,
Central Railway,
Jhansi.
3. The Divisional Mech. Engineer (Diesel),
Central Railway, Agra Cantt.

.. Respondents

ORDER (Oral)

By Mr. V.K. Majotra, Member (A)

The applicants are working as Skilled Artisans in the grade of Rs. 950-1500 as Welder/Mason under respondent No. 2 and 3. The applicants claim to have passed the trade test for the post on which they have been working for more than 12 years continuously as Skilled Artisans. Whereas applicant No.2 was appointed as Mason on 9.8.1982 and was given temporary status with effect from 1.1.1984, applicant No.1 was initially engaged on 4.10.1984 and given temporary status from 1.1.1986. Applicant Shri Syed Mazhar Hussain in OA-2671/96 was engaged as a casual Diesel Mechanic in the year 1984 and has continuously been working as such in the grade of Rs. 950-1500.

2. When these applicants represented to the respondents to regularise them in Group-D posts which they have been holding for long number of years respondents have decided to screen the applicants with a view to regularise them in Group-D posts. The applicants have sought directions to the respondents to regularise the services of the applicants in Group 'C' posts in which they have been continuously working for the last several years with consequential benefits.

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3. Respondents have stated in the counter in OA-2541/96 that there is no direct quota for regularisation of service directly in the artisan category. Hence the applicants have been screened in Group-D and then ^{to} ~~been~~ regularised in Group-D and thereafter to be considered for promotion to Group C post against 25% departmental promotion quota from Group D staff. Respondents have failed to file a counter in OA-2671/96 and their right to file a reply was forfeited on 10.7.1997.

4. The applicants have drawn our attention to the following:-

i) Order dated 2.2.2000 in OA-313/96 (Shri Chhajjoo Vs. U.O.I. & Ors)

ii) Order dated 1.3.2000 in OA-1791/96 and OA 1792/96 Hari Singh & Others and Lakshmi kant Saxena & ors. Vs. Union of India & others.

5. The provisions of para-2007(3) of the Indian Railway Establishment Manual, Volume-II are relevant here. Under these provisions it is envisaged that casual labour engaged in work charged establishments of certain departments who got promotion as semi-skilled, skilled and highly skilled due to non-availability of regular departmental candidates and continued to work as casual employee for a long period can be absorbed in the regular vacancies in skilled grades provided they have passed the requisite trade test to the extent of 25% vacancies reserved for departmental promotion from unskilled and semi-skilled

categories. It also lays down that the aforesaid orders also apply to the casual labour who are recruited directly in the skilled categories in work charged establishments after qualifying in the trade test.

It may be mentioned here that the applicants have been working in the skilled category for a long number of years but respondents have not considered the applicants for regularisation as Skilled Artisans. They are considering them for regularisation in Class-IV posts.

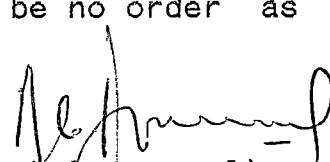
State of Haryana and Ors.

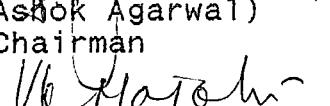
6. The ratio of Piara Singh & Ors. reported in SLJ 1992 (Vol.III) p.34 is relevant to the facts of the present case. The relevant portion is re-produced below-

" So far as the work-charged employees and casual labour are concerned, the effort must be to regularise them as far as possible and as early as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to availability of work. If a casual labour is continued for a fairly long spell -say two or three years- a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the concerned authority to examine the feasibility of his regularisation while doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person. As has been repeatedly stressed by this Court, security of tenure is necessary for an employee to give his best to the job. In this behalf, we do commend the orders of the Government of Haryana (contained in its letter dated 6.4.1990 referred to hereinbefore) both in relation to work-charged employees as well as casual labour".

7. On consideration of the facts of the present case, the ratio of Piara Singh(Supra) readwith the provisions contained in para-2007 (3) of the IREM Vol-II and in view of the fact that the applicants have worked for a long number of years as Skilled Artisans with the respondents, a presumption has to be drawn that there is a regular need for their services. In these very categories it is necessary for the respondents to examine the feasibility of regularisation of the applicants as Skilled Artisans. Respondents are accordingly directed to organise screening of the applicants for skilled categories instead of Class-IV posts (unskilled) and regularise them as such in case they are found suitable. This process be completed within a period of six months from the date of receipt of a copy of this order.

8. OAs are disposed of in the aforestated terms. There shall, however, be no order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (A)

cc.