

Central Administrative Tribunal
Principal Bench: New Delhi

O.A.No. 108/97

New Delhi this the 2nd day of February 2001

Hon'ble Shri S.R. Adige, Vice Chairman (A)
Hon'ble Dr. A.Vedavalli, Member (J)

Jagram Singh,
S/o Shri Nanak Chand
R/o H-386-B, Railway Hartala Colony,
Moradabad.

(By Advocate: Shri M.K. Bharadwaj)

Versus

Union of India, through

1. General Manager,
Northern Railway,
Baroda House,
New Delhi-110 001.
2. Chief Administrative Officer (Const.)
Northern Railway,
Kashmere Gate,
Delhi-110 006.
3. Deputy Controller of Stores,
Northern Railways,
Shakurbasti,
Delhi.

(By Advocate: Mrs. Meera Chhibber with
Shri O.P. Kshatriya)

O R D E R (ORAL)

By Shri S.R. Adige, VC (A)

Applicant seeks a direction to respondents
to regularise him in the post of MCC from the
date he was promoted in that scale i.e.
6.6.1989.

2. We have heard, applicant's counsel Shri
M.K.Bharadwaj and respondent's counsel Mrs.
Meera Chhibbar with Shri O.P. Kshatriya.

3. Applicant who was appointed as a Khalasi in the Office of the Deputy Controller of Stores, Shakurbasi was thereafter deputed to Construction Organisation and while on deputation he was promoted on ad hoc basis there as MCC and ^{is} continuing till date. (18)

4. Meanwhile, respondents held selection for promotion of Class IV employees to Class III posts against 33-1/3% quota. Respondents in their reply state that applicant did not appear in the initial selection but it is not in doubt that in the aforesaid selection held in 1994 applicant did appear, and by respondents letter dated 16.9.1994 (Annexure A-14) is stated to have cleared the written test and thereby became eligible in the viva-voce test for selection. However, nothing has been shown to us by the applicant's counsel to establish that the applicant's cleared the viva-voca test also and it is therefore clear that applicant could not be regularised as Clerk in his own cadre for the aforesaid reason.

5. CAT Principal (Full Bench) has separately held in its order dated 4.12.2000 in OA 103/97 Ram Lubhaya & Ors. Vs. Union of India and in connected cases that Railway servants holding lien in their parent cadre under a division of the Railways and on being deputed to

Construction Organisation and there having been promoted on a higher post on ad hoc basis and who continue to function on that post on ad hoc basis for long period of time would not be entitled to regularisation ~~only~~ on that post in their parent division/office. They are entitled to regularisation ^{only} in their turn, in the parent division/office. Nothing has been shown to us to establish that the aforesaid order dated 4.12.2000 has been stayed, modified, set aside, and under the circumstances, applying the aforesaid ruling to the facts and circumstances of the case, it is manifest that applicant cannot claim regularisation in Construction Division where he is working presently as Clerk on ad hoc basis, and we have also seen that applicant could not clear the viva voce test for being regularised as Clerk in his own cadre in the Office of Deputy Controller of Stores, Shakurbasti.

6. During the course of hearing applicant's counsel, Shri M.K. Bharadwaj has invited our attention to CAT (Principal Bench) order dated 13.11.1992 in OA 807/87 in which certain Khallas who were subsequently promoted on ad hoc basis, and had completed 3 years service, were ordered to be regularised, provided they could fulfil the conditions laid down in GM, Northern Railway's order dated 31.12.1990.

7. At the outset, we note that the aforesaid order was a content order passed with the consent of both parties, which is not the case here. Secondly, we note that the aforesaid order in Mohinder Singh's case (Supra) is no longer good law in the light of the Full Bench Order dated 4.12.2000 in Ram Lubhaya's case (Supra) which as mentioned earlier to our knowledge has not been stayed, modified or set aside. In the circumstances, the order in Mohinder Singh's case (Supra) does not assist the applicant.

8. In this connection, Shri O.P Kshatriya has invited our attention to the Tribunal's order dated 12.9.2000 in Jai Chand Vs. GM, Northern Railway & Ors. In that OA also applicant's claim for regularisation as Driver in the open line on the strength of having worked in the post of Vehicle Driver in the Construction Organisation was rejected. That order is dated 12.9.2000 and in line with the Full Bench Order in Ram Lubhaya's case (Supra).

9. In the light of the above, we find ourselves unable to grant the relief prayed for by the applicant. As and when respondents hold fresh selections for the post of Clerk under 33-1/3% promotion quota in the applicant's own cadre, we would expect that applicant will be given an opportunity to apply for the same.

given an opportunity to appear in the same, if he is eligible, and he can take his chance at that time.

(21)

9. OA is disposed of accordingly. No cost.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

S.R. Adige

(S.R. Adige)
Vice Chairman (A)

Mittal