

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA.No.238 of 1997

New Delhi, this 6<sup>th</sup> day of ~~February~~ March, 1998.

HON'BLE DR JOSE P. VERGHESE, VICE CHAIRMAN(J)  
HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

Avtar Singh  
S/o Shri Joginder Singh  
Casual Driver  
Working under:  
The Deputy Chief Engineer (Construction)  
Northern Railway  
CHANDIGARH. ... Applicant

By Advocate: Shri B. S. Mainee

Versus

Union of India, through

1. The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. The Chief Administrative  
Officer (Construction)  
Northern Railway  
Kashmere Gate  
Delhi.
3. The Divisional Railway Manager  
Northern Railway  
Ambala Cantt.
4. The Deputy Chief Engineer  
(Construction)  
Northern Railway  
Chandigarh.

... Respondents

By Advocate: Shri B. S. Jain

O R D E R

Hon'ble Mr K. Muthukumar, M(A)

The applicant seeks regularisation of the services as a Driver from the date from which he has been working as a Casual Driver. His contention is that he has been working as a Casual Driver in Group 'C' post for the last twelve years and he was

granted temporary status after passing the trade test for the said post. The respondents, however, called the applicant and such other casual staff to undergo screening for Group 'D' post, which according to the applicant, is contrary to the statutory rules. He relies para-2007 (3) of the Indian Railway Establishment Manual, Vol.-II and also a judgment of the Tribunal in OA.2720/90 (Annexure A-6) decided on 11.12.96.

2. The respondents have contested the pleas of the applicant. It is stated that the applicant was engaged as a Casual Driver without the trade test and without following the rules of appointment. according to them, in terms of I.R.E.M. Vol.II, it is impossible for the respondents to get the applicant regularised directly in Group 'C' post in the absence of adequate number of vacancies available in the departmental quota to the extent of 25% as laid down in para 2007(3) of the aforesaid Manual. The applicant, though appointed as a Casual Driver in Group 'C' post, cannot be brought on directly to Group 'C' post by regularisation of his service. They submit that a similar case was also considered by the Apex Court in Union of India Vs Moti Lal & Ors in Civil Appeal No.3619-24 of 1996 wherein it was held that the respondents in the said case who were working as a Casual Mates for a long time did not acquire right for regularisation as Mates on the mere fact that they have worked for a considerable period as a casual worker on temporary basis. The post of Mate

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was a Class-III Group "c") post to which Gangman and Keyman (Group 'D') who were eligible for promotion and as such the post of Mate Class-III is a promotion post and the respondents in the aforesaid case were declared not to have any right for regularisation as Mate in the Group 'C' post straightway by virtue of their service. Relying on this judgment, we have considered the averments of the applicant as well as the respondents and have heard the learned counsel for the parties.

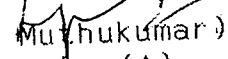
3. We find that relying on the judgment of the Apex Court in UOI Vs Moti Lal (supra), a Division Bench of this Tribunal in OA.2215/95 did not grant the prayer of the applicant in the aforesaid OA for regularisation to Group 'C' post notwithstanding the fact that he continued to discharge the duties of a Driver for a long time. It was held by the Bench that the applicant had to be regularised in Group 'D' post before he could be considered for regularisation as Driver and, therefore, respondents were directed to consider the applicant for regularisation in Group 'D' post.

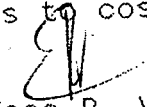
4. In the facts and circumstances of the case and in the light of the prayers in the present application which are almost identical with the aforesaid decided case of L.P. Mishra Vs UOI in OA.2215/95, we are bound by the aforesaid judgment of this Tribunal.

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5. Accordingly, we dispose of this application also with a direction to the respondents to consider the applicant for regularisation in Group 'D' post within three months from the date of the receipt of a copy of this order. In case he is regularised in Group 'D' post, it would be open to the applicant to represent to the respondents for consideration of his case for grant of promotion to the post of Driver in Group 'C' in accordance with the extant rules and instructions and having regard to the availability of vacancies and the applicants eligibility and the seniority.

6. This application is disposed of with the above directions. There shall be no order as to costs.

  
(K. Muthukumar)  
Member (A)

  
(Dr. Jose P. Verghese)  
Vice Chairman (J)