

Central Administrative Tribunal
Principal Bench

O.A.No.908/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 21st day of January, 1998

Sh.Kartar Singh
S/o.Sh.Khacheru Singh
R/o.Vidya Nagar, Harpala Village,
Moradabad.

APPLICANT

(By Mrs.Rani Chhabra, Advocate)

Versus

Union of India

1. The Secretary
Department of Telecommunications,
Sanchar Bhawan,
New Delhi-110001.
2. The Chief General Manager
West,
Dehra Dun.
3. The Divisional Engineer (T)
Microwaves Project,
Moradabad.

RESPONDENTS

(By Sh.B.K. Aggarwal, Advocate)

O R D E R (Oral)

The applicant who joined as Casual Lorry Driver in the Department of Telecommunications in 1982 and who has since been conferred temporary status, seeks a direction to the respondents to regularise him on the basis of notification dated 10.9.91, Annexure-A IV. It is submitted by the applicant that in 1985 his services were unlawfully terminated whereupon he approached the Labour Commissioner, Kanpur and obtained an award in his favour which became final on rejection of writ petition filed by the respondents. He has thus been in continuous employment as Lorry Driver since 1982. In 1991 vide Annexure-IV, the respondents issued a clarification after discussion with staff unions which is reproduced below:

Ja

"Against the 50 per cent quota of vacancies meant for outsiders, recruitment of drivers may be made only from amongst those drivers already appointed in the department on casual basis before 1.4.85, failing which recruitment may be made from amongst the casual labourers of temporary status doing the job of drivers. Subject to fitness, the recruitment may be made in order of priority based on the length of service as casual driver/casual labour (engaged as drivers)".

2. The applicant submits that in accordance with the above clarification, he is entitled to the relief claimed.

3. The respondents have filed a reply. They submit that under the Recruitment Rules 50 per cent posts are filled by direct recruitment and 50 per cent by promotion. Regularisation in the case of applicant, ~~there~~ depends upon two factors. One is seniority in Group 'D' and second is of passing ~~of~~ the examination as required in the case of direct recruitment. They say that the applicant will be considered for regularisation as Driver depending upon the availability of vacancy and fulfilment of the eligibility criteria.

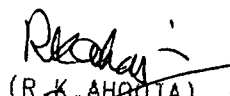
4. I have heard the counsel. In terms of the clarification made by the respondents which is extracted above, it is clear that 50 per cent of vacancies meant for outsiders, are to be filled in by those drivers "who are appointed in the department before 1.4.85." The applicant falls in that category. Ofcourse, as pointed out by the learned counsel for the respondents the recruitment in this category is to be made in order of seniority, based on length of service and also the driving test by the Selection Committee. An allegation has been made by the applicant that all other drivers have since been regularised. It is not clear however, whether any casual driver with lesser

Dr
/

13

service than the applicant has been so regularised. In view of this position, the OA is disposed of with the following directions:

- a). The respondents will consider the applicant, in case of a vacancy becoming available, for regularisation in terms of Annexure-IV dated 10.9.91 on that basis that ~~as~~ he had been appointed as Casual Lorry Driver before 1.4.85.
 - b). His seniority will be considered on the basis of his initial appointment from 1982.
5. There will be no order as to cost.


(R.K. AHOOJA)
MEMBER(A)

/PB/