

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

RA NO. 240/2002 IN
OA NO. 113/1997

This the 24th day of July, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Union of India and others

(By Advocate: Sh. R.L.Dhawan)

Versus

Ram Prakash and others

(By Advocate: Sh. B.S.Mainee)

ORDER (FINAL)

By Sh. Kuldip Singh, Member (J)

This is a review application filed by the respondents seeking review of the order passed by this Tribunal in OA-113/97 on 12.2.1999.

2. Applicants had filed an OA and are aggrieved of the impugned order Annexure A-1 by which they have been called to appear for screening in Group 'D' posts but inspite of appearing for screening test applicant filed the OA seeking issuance of directions to respondents to regularise their services straightaway in Category 'C' on the strength of having worked for long time in the same category.

3. OA is contested by the respondents and Court came to the conclusion that applicants were strictly appointed in the skilled category but in the on line organisation. Applicants had relied on para 2007 (3) of IREM Vol.2 seeking regularisation in Group 'C' post. The Court also considered and stated that para 2007 (1) and 2007 (2) would apply to the case of the applicants. Para 2007 (1) provides the the Railway department may engage the casual workers in skilled category without giving the trade test but it should be

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ensured that their suitability for semi-skilled or skilled grade is adjudged well in time before they attain temporary status. Para 2007 (2) further says that when casual labours are engaged in skilled categories, the relevant scale for the purpose of determining their wages (as per orders regulating wages of casual labour) will be that applicable to skilled artisans. On attaining temporary status they shall be paid in that scale. Thus, para 2007 (2) regulates the wages to be paid to casual labours who are engaged in skilled category.

4. Since the applicant had worked for sufficient long period in a skilled category, Court relied upon the judgment of Hon'ble Supreme Court in Ram Kumar & others vs. Union of India, SLJ 1996 (1) SC 116 has quoted the same in the judgment and allowed the OA partly with the directions as given below:-

"(i) Those of the applicants who have passed necessary trade test and are working in Group-C posts shall be considered for absorption/regularisation in the said category if regular vacancies are available within 25% quota in Group-C.

(ii) In case no such vacancies are available, the applicants shall be adjusted against Group-D posts for the time being, protecting their pay and allowances for Group-C category post until vacancies in Group-C arise within 25% quota and shall be regularised in Group-C in term of seniority and availability of vacancy. In other words, those eligible casual labourers working in Group-C may be

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screened and regularised after screening in Group "D" but their pay and allowances shall be protected until their promotion in Group-C category."

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5. Applicants in the present RA pleaded that there are errors of question of facts and question of law. The main plea of the applicant is that the directions given in the judgment are against the rules as enshrined in para 159 of the IREM Vol.1. According to the review application for the appointment of skilled artisans para 159 provides as under:-

(i) 25% by selection from course completed Act Apprentices.

(ii) 25% from serving semi-skilled and unskilled staff with educational qualification as laid down in Apprentices Act and

(iii) 50% by promotion of staff in the lower grade as per prescribed procedure.

6. As the directions given are not in accordance with para 159, the same cannot be acted upon.

7. Applicants in the OA are contesting the review application. Petitioners pleaded that the review application is not maintainable as it is submitted that by filing the review applicants want to reagitate the matter and the review application cannot be allowed for rearguing the case. Counsel for petitioners in the OA also pleaded that the Tribunal has simply followed the judgment given by the Hon'ble Supreme Court and various other judgments whereby the directions have

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been given to regularise the skilled artisans after organising a screening test for the post of skilled artisan instead of Class-IV post.

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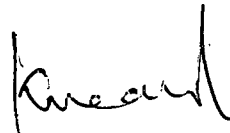
8. Counsel for the petitioners in the OA had also pointed out that railway's department had also filed a similar review petition in some other matter wherein the similar directions were given, same has been dismissed and writ petitioner against that order has also been dismissed by the Hon'ble High Court.

9. I have considered the rival contentions of the parties and have gone through the record.

10. At the outset, I may point out that in the judgment rendered by this Tribunal the Court has also observed that the applicants were directly appointed to the skilled category in the open line organisation. As per the provision of para 2007 (1) and (2), Court had simply directed that the applicants who have passed the necessary trade test and have been given Group 'C' post are to be considered for absorption/regularisation, if regular vacancies are available withi 25% quota in Group-C. Para 2007 (3) also provides that the candidates who continue to work as casual employees for long period can straightaway be absorbed in regular vacancies in skilled grades provided they have passed the requisite trade test, to the extent of 25% of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. This para 2007 also applies to the casual labour who are recruited directly in skilled categories in work charged establishments after qualifying in the trade test.

11. So I donot find any factual error in the judgment. As far the pay protection is granted. All the apploiants are already directed to be engaged as skilled workers. Court had rightly protected their pay though it has been directed that they may be adjusted against Group 'D' post for the time being and whenever vacancies arise in Group 'C' within the 25% quota they shall be regularised in Group 'C'. Since there is provision under para 2007 (3) for regularisation of casual labour who are recruited directly in the skilled categories in the work charged establishments, I also donot find that there is any error in law if the casual labours engaged directly have reguarlised in post for skilled category workers.

12. As there is no error apparent on the fact of the record, RA stands dismissed.


(KULDIP SINGH)
Member (J)