

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2241 of 1994

New Delhi this the 26th day of July, 1999

HON'BLE MR. JUSTICE D.N. BARUAH, VICE CHAIRMAN  
HON'BLE MR. N. SAHU, MEMBER (A)

1. Shri Subhash Chander  
S/o Shri Amar Nath Sharma
  2. Shri Shiv Narayan  
S/o Shri Ramjit Singh
  3. Shri Harkesh Singh  
S/o Shri Ramji Das
  4. Shri Harish Chandra Jha  
S/o Shri Gangadhar Jha
- .Applicants

All working under Chief Inspector of  
Works (C) Bhatinda.

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,  
Northern Railway,  
Kashmeri Gate,  
Delhi.
  3. The Divisional Railway Manager,  
Northern Railway,  
Ambala Cantt.
- ..Respondents

By Advocate Shri O.P. Kshatriya.

ORDER (ORAL)

By Hon'ble Mr. Justice D.N. Baruah, Vice Chairman

The applicants were initially appointed  
casual labourers during the period from 1978 to

*[Signature]*

1981 and thereafter temporary status had been granted to them during the period from 1982 to 1985. All the applicants were waiting for regularisation. They were promoted as casual labourers having temporary status in Group 'C' post and in the Group 'C' post they have been working for about 10 to 14 years. The grievance of the applicants is that they have not been regularised. According to the applicants they are entitled to be regularised in Group 'C' instead of Group 'D' post. According to the applicants they are entitled to be regularised in Group 'C' as per the provisions contained in Rule 2007 of the Indian Railway Establishment Manual Volume.II and also in the light of the judicial pronouncement. The respondents in the counter-affidavit have not come out with the ground that there was no vacancy. Regarding the passing of the test, the respondents are silent whether they were given opportunity for passing the test.

2. We have heard both sides and also perused the materials on record.

3. Mr. Mainee has brought to our notice the Bipartite Agreement held on 28.4.97. In the said agreement it has been mentioned that keeping in view

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the hardships, the Group 'C' staff has to suffer on going to Group 'D' on the divisions, it was decided as follows:-

"All Group 'C' casual labour working on Construction Organisation may not be spared forcibly, who are willing to be regularised in Group 'D' posts. Staff who have been spared forcibly against their willingness should be taken back on the same posts grade and place where they were earlier working, if they report back. Follow up action should be taken to get such staff regularised in Group 'C' utilising the provision of PC 11229 cadre of construction reserve and also the possibilities of Direct Recruitment quota being utilised for this purpose may be explored".

Shri Mainee has also drawn our attention to the Board's instructions dated 20.1.1985. These instructions were noticed by this Tribunal in case No.OA 347/96 also. The instructions are as follows:-

"vii) Under the delegation of powers for creating posts in decasualisation, skilled posts also may be sanctioned in the initial grade of Rs.260-400. Existing skilled casual labour fulfilling the following conditions may be absorbed against posts thus created subject to their being adjudged suitable upto the upper limit of 25% of such posts:

a) should have rendered 5 years service as skilled casual labour:

b) should have passed the prescribed trade test;

c) should be within the age limit of 25 years, after allowing relaxation to the extent of service put in as casual labour; and

d) should have the educational qualifications laid down in the Apprentices Act (this being a condition of recruitment of serving employees in unskilled/semi-skilled grades against 25% vacancies in the skilled grade."

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The above instruction of the Board is similar to para 2007 of the Railway Establishment Manual Vol.II. In sub-para 2 of the said para, it has been stipulated that casual labourers promoted to skilled grade shall be regularised towards 25% vacancies in Group 'C' category and sub-para 3 says that the same principle would apply to casual labourers who had been directly inducted into the skilled category of Group 'C'. The applicants in this case were first taken in Group 'D' and thereafter temporary status was granted in Group 'D' and thereafter they were taken as Group 'C' and have been working for more than 10 years in that posts.


4. In view of the above factual position, we are of the opinion that the action of the respondents in not regularising them in Group 'C' posts is unjust and illegal. They should be regularised in Group 'C' post against 25% quota subject to the compliance of railway rules applicable in such situation and subject to availability of vacancies. We also make it clear that if there are no vacancies in Group 'C', they should be regularised in Group 'D'. However,

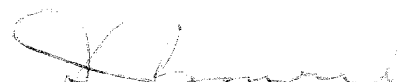
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their pay shall be protected in Group 'D' post as the respondents agreed to protect the pay before the Supreme Court in Ram Kumar and Others VS. U.O.I. & Others, SLJ 1996 Vol. I SC 116 .

5. With the above directions, the application is disposed of. No costs.

  
(N. SAHU)  
MEMBER (A)

  
(D.N. BARUAH)  
VICE CHAIRMAN

Rakesh