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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

O.A. No. 1125/1989. Date of decision: September 4, 1990.

Shri Om Pal Singh ... Applicant.

vs.

Union of India & Ors ... Respondents.

CORAM:

Hon'ble Mr. Justice Amitav Banerji, Chairman.

Hon'ble Mr. B.C. Mathur, Vice-Chairman (A).

For the applicant ... Shri B.S. Mainee, counsel.

For the respondents ... Shri P.S. Mahendru, counsel

(Judgment of the Bench delivered by Hon'ble
Mr. Justice Amitav Banerji, Chairman)

The applicant, Shri Om Pal Singh has filed this Application under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred to as 'the Act'). He is aggrieved that his service had not been regularised although he has been working as Material Checking Clerk in the Northern Railway, Ferozepur Division continuously with effect from 20.5.1977 on ad hoc basis.

He has asked for three reliefs:

- (i) for a direction to the respondents to regularise the services of the applicant as Material Checking Clerk from the date he is continuously working on ad hoc basis;
- (ii) to direct the respondents to give the benefit of General Manager's order Annexure A-20 and A-1 for regularisation; and
- (iii) to direct the respondents to assign seniority to the applicant from the date he was working as Material Checking Clerk.

There is no dispute about the fact that the applicant has been working continuously as Material Checking Clerk from 1977 in the Northern Railway at Ferozepur. He was appointed on ad hoc basis and he is continuing as such. He has not been regularised for the past 12 years.

The applicant referred to the Minutes of the PNM meeting held on 7th and 8th May, 1987 which was presided over by the General Manager, Northern Railway. One of the items for consideration was "cancellation of selection for the post of material checking clerk on Delhi Division". It was stated that:

"After discussing it was decided by the G.M. that all those staff who are working continuously as material checking clerk on ad hoc basis for the period of three years or more may be regularised on the basis of their service record and viva-voce duly observing the extent instructions on the subject as a special case not to be quoted as a precedent in future."

The copy of the minutes was also sent to all the Divisional Railway Managers, Northern Railway.

In paragraph 4.26 of the D.A., reference is made to a PNM Meeting held on 6th and 7th June, 1988, (Annexure A-1) where the General Manager, Northern Railway ordered that the case of Allahabad Division and other Divisions where the Material Checking Clerks were working on ad hoc basis for more than 3 years shall be regularised on the same pattern of Delhi and Lucknow Divisions.

In paragraph 4.27 of the written statement filed by the respondents-Railway, the position was admitted and

it was stated that in the Ferozepur Division no such instructions were received and no regularisation was made.

We have heard Shri B.S. Mainee for the applicant and Shri P.S. Mahendru for the respondents.

The factual position is that the applicant has been working continuously from 1977 as Material Checking Clerk in the Northern Railway. He has not been regularised in spite of long number of years at the same post. He remained ad hoc all these years.

In view of the decision in the case of NARENDER CHADHA & ORS. Vs. UNION OF INDIA & ORS. (1986 (1) SCR 211) and in a recent decision of the Supreme Court in the case of THE DIRECT RECRUIT CLASS II ENGINEERING OFFICERS' ASSOCIATION & ORS. Vs. STATE OF MAHARASHTRA AND OTHERS (JT 1990(2) SC 264), the legal position is now undisputed that long and uninterrupted period of service in ad hoc capacity, which is not a stop gap arrangement, is also liable to be regularised and the entire period is to be counted towards seniority of the employee. Thus, the applicant is entitled to be regularised.

There is another reason why the applicant must be regularised. The General Manager, Northern Railway had issued orders in the month of June, 1988 for regularisation of all those Material Checking Clerks who had put in more than three years continuous service on ad hoc basis in the Northern Railway. This had not been implemented in the case of such employees in Ferozepur Division of the Northern

Railway. We are of the view that there cannot be a discrimination in the matter of implementation of the above order of the General Manager, Northern Railway. It had to be implemented in the case of all such clerks in the Ferozepur Division of the Northern Railway. We, therefore, conclude that the applicant is entitled to regularisation in service as Material Checking Clerk and he is also entitled to be assigned seniority taking into account his ad hoc service w.e.f. 20.5.1977.

We, therefore, allow this O.A. and direct the respondents to regularise the services of the applicant forthwith and assign him seniority taking into account the entire period of continuous officiation in service as Material Checking Clerk. There will be no order as to costs.

B. C. Mathur
(B.C. MATHUR)
VICE-CHAIRMAN (A)
4.9.1990.

Amitav Banerji
(AMITAV BANERJI)
CHAIRMAN
4.9.1990.