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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1802/89

New Delhi this the 15th Day of April, 1994.

Hon'ble Mr. B.N. Dhoundiyal, Member(A)
Hon'ble Mr. B.S. Hegde, Member(J)

Shri Kishori Lal,
S/o late Sh. Nathi Lal,
R/o ND-49, Vishakha Enclave,
Pitampura,
Delhi-34.

Applicant

(By advocate Sh. G.D. Bhandari)

versus

1. The Union of India
through the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
Bikaner.

Respondents

(By advocate Sh. D.P. Kshatriya)

ORDER (ORAL)

delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

In this O.A. the applicant prays for regularisation against the post of Trains Clerk, which he has been holding from 1986 onwards. He had made representation to the DBM, Northern Railway, Bikaner on 5.2.1989 for regularisation to this post against the quota available for SC but did not receive any reply. On 22.9.1989, a Bench of this Tribunal passed an order that the applicant should not be disturbed from the post which he is holding. A review application No.185/89 was filed and the above order was recalled.

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M.P. for grant of interim relief was moved under registration No. 1150/91 and was decided by another Bench of this Tribunal on 17.5.1991. The following observations were made:-

"However, after going through the entire record and pleadings of the parties, we are of the view to follow the principles laid down in the case of Jetha Nand & Others Vs. U.O.I. (Full Bench Judgement CAT P.353). Accordingly, as an interim measure, the respondents are directed to continue to give opportunity to the applicant to work on ad hoc basis in the post of Trains Clerk, either at Suratgarh or at any other place within the Division where a vacancy may be available, if his juniors in the cadre of substantive post of Points-Man held by them and who have not qualified in the selection for the post of Trains Clerk are allowed to officiate on the post of Trains Clerk."

Heard the learned counsel for the parties.

The learned counsel for the respondents has drawn our attention to the judgement of Full Bench in the case of Suresh Chand Gautam and Others Vs. Union of India and Others wherein relying on Jetha Nand's case, it has been held that passing the selection test is mandatory for promotion and an employee officiating a higher post is liable to be reverted if he fails to qualify the selection test (Full Bench Judgements Vol. 2 P.487). The learned counsel for the applicant stated that he has no information at present whether the applicant has been regularised or not. Reiterating the view taken by the Full Bench in the above mentioned case, we hold that for regularisation it will be necessary for the applicant to pass the selection test. The O.A. is disposed of with the observation that the applicant may be regularised from the date he passes the selection test. The respondents are directed to continue giving an opportunity to the applicant to work on ad hoc basis in the post of Trains Clerk, if

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his juniors in the cadre are officiating and who have not qualified for selection for the post of Trains Clerk are allowed to officiate on the post of Trains Clerk.

There will be no order as to costs.

B.S. Hegde
(B. S. HEGDE)
MEMBER (J)

B.N. Dhondiyal
(B. N. DHONDIYAL)
MEMBER (A)

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