

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No.2413/89

New Delhi this the 12th day of May, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri P.T. Thiruvengadam, Member(A).

1. Shri Prem Singh  
S/o Shri Prabhu Dayal.
2. Shri Bansi Lal,  
S/o Shri Kanhaya.
3. Shri Shiv Narain,  
S/o Shri Kanhaya.
4. Shri Mool Chand,

(All of them working under  
Loco Foreman, Northern Railway,  
Tughlakabad, New Delhi).

...

Petitioners.

By Advocate Shri B.S. Mainee.

Versus

Union of India through

1. The Divisional Railway Manager,  
Northern Railway,  
New Delhi.
2. The Loco Foreman,  
Northern Railway,  
Tuglakabad,  
New Delhi.

...

Respondents.

None for the respondents.

ORDER (ORAL)

Shri Justice V.S. Malimath.

Having regard to the special facts and circumstances  
of this case, we consider it proper to take a lenient view  
of the matter and issue appropriate directions.

2. The petitioners were appointed as Class-IV employees between 1972 and 1974. They were after some test being held appointed as Telephone Attendants between 4.5.1979 and 20.5.1980. The order of appointment according to the respondents shows that they were appointed only on ad hoc basis. For the purpose of regularising their services, a test was held which the petitioners took on 10.4.1988 but all of them failed. Therefore, they were reverted by the impugned order, Annexure A-2, and a direction was issued to fill up those places by regularly appointed Telephone Attendants. It is in this background that the petitioners have approached the Tribunal for relief. During the pendency of this application, the petitioners have continued in service for nearly five years now on the strength of the interim order of the Tribunal. Thus, it is clear that the petitioners have been working for nearly 15 years or more as Telephone Attendants. It would be too harsh to enforce reversion at this stage. At the same time, interest of the administration has to be safeguarded as they cannot continue those who are inadequate for the job. Having regard to the equities and special facts of this case, we consider it appropriate to direct their continuance on ad hoc basis until a test is held for assessing their suitability as Telephone Attendants. If in the test they fail, they are liable to be reverted. On the contrary, if they pass in the test, they shall be continued on regular basis.

3. For the reasons stated above, this application is allowed and the following directions are issued .

As these directions are being issued having regard to the special facts and equities in this case, they shall not be treated as precedent.

1. The respondents shall not enforce the order of reversion, Annexure A-2.
2. The respondents shall hold a suitability test for promotion to the post of Telephone Attendant within a reasonable period.
3. Such of the petitioners who are successful in the test shall continue on regular basis and those who fail in the test may be reverted to the lower cadre.
4. No costs.

*P. T. Thiruvengadam*  
(P.T. THIRUVENGADAM)  
MEMBER (A)

*V. S. Malimath*  
(V.S. MALIMATH)  
CHAIRMAN

'SRD'  
130594