

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA.No.78/88

Date of Decision:18.05.1993

Shri Suresh Prasad

Applicant

Versus.

Union of India

Respondents

Shri B.S. Mainee

Counsel for the applicant

Shri Romesh Gautam

Counsel for the respondents

CORAM: The Hon. Mr. A.B. GORTHI, Member(A)

The Hon. Mr. C.J. ROY, Member(J)

J U D G E M E N T (Oral)

(delivered by Hon. Member(J) Shri C.J. ROY)

The applicant who joined the Northern Railway, Allahabad as a Khalasi on 12.8.77 was promoted on 3.11.81 as a Telephone Operator on adhoc basis. Thereafter, in the same post, he was transferred to Aligarh. He was sent for training to the Signal and Telecommunication Engineering School at Ghaziabad for refresher course for Telephone Operators, which he completed successfully on 13.12.83. Even though, the applicant completed the said refresher course and he possessed the educational qualification of matric, his services as Telephone Operator were not regularised. His several representations through the authorities concerned elicited no reply. His prayer is that having worked continuously as adhoc Telephone Operator w.e.f. 3.11.81, his services in the post are to be regularised from the date of his initial appointment. The respondents for the reasons best known to them, has chosen not to file any reply affidavit.

2. We have heard the learned counsel for both parties. At the very outset, Mr. Romesh Gautam, learned counsel for the respondents stated that the applicant appeared for the required selection test for appointment as Telephone Operator but failed to qualify in the test. The learned counsel for the applicant Shri B.S. Mainee has strongly contended that the applicant's service as a Telephone Operator

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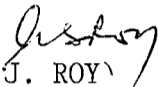
deserved to be regularised mainly because, he was promoted to that post against the regular vacancy. He passed the required refresher course and that he continued to serve in that post not only continuously, but also satisfactorily. In support of his contention, he has drawn our attention to a judgement of this Tribunal in Francis Xavier Versus Union of India (ATR 1990(1) CAT, 422). That was the case where the applicant was working as a casual mazdoor but was discharging the duties of a driver for a very long period. It was accordingly held that he was entitled to be considered in a regular appointment to the post of Driver, or in any other category available with the respondents to accommodate him on a regular basis.

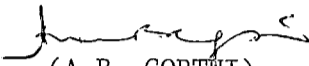
3. Reliance was also placed on the judgement of the Tribunal in the case of Satish Kumar Sharma Versus Union of India (SLJ 1991(3) CAT, 391). That was also the case of a casual labourer working against the class-III posts for a long period of six to eight years. In that case, the Tribunal observed that steps must be taken by the respondents for the regularisation of the applicants after preparing the necessary scheme for the purpose.

4. Shri Romesh Gautam cited larger Bench case of Suresh Chand Gautam and others Versus Union of India, (FB (C.A.T) 1989-91, Vol.II, 487) in which, reference was made to Jetha Nand's case which is in the same book at page 471, wherein almost fully agreeing with the Jetha Nand's case, it was observed in para-14 that, however, we are of the view that all the class-IV employees holding adhoc posts in class-III, are to be given several opportunities to qualify and are to be reverted if they do not qualify even after repeated opportunities. This observation supports the above view in the sense that Class-IV employees holding the adhoc posts in Class-III, should be given liberal opportunities to get through the examination. Therefore, we are of the view that the learned counsel for the applicant has made out the case for a direction be given to the respondents. We feel that the interest of justice will meet if the case is disposed of with the following directions:-

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1. The respondents to consider the case of the applicant for regularisation, by giving some more opportunities to appear in the examination, if necessary.
2. Till a regular candidate is available, the applicant shall not in any case be reverted by an adhoc employee.
3. There will be no order as to costs.

  
(C.J. ROY)  
MEMBER (J)  
18.05.1993  
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(A.B. GORTHI)  
MEMBER (A)  
18.05.1993