

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

14

Regn. No. OA 132/87

Date of decision: 31.10.89

Shri Madan Lal Talwar & Others

...Applicant

Vs.

Union of India & Others

...Respondents

For the Applicant

...Shri R.L. Sethi,
Counsel

For the Respondents

...Shri Inderjit
Sharma, Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. I.K. RASGOTRA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

(The judgment of the Bench delivered
by Hon'ble Mr. P.K. Kartha, Vice Chairman(J))

The applicants who are working as Typists in the Northern Railway filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying that the respondents be directed to relate back their regularisation to the post of Typists held by them from the respective date of their original ad hoc appointment.

2. All the applicants were recruited to various Class IV posts of Northern Railway and their next channel of promotion is to the post of Typist. According to the relevant Recruitment Rules, 25% of the posts of Typists are reserved

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for Class IV employees.

3. Admittedly, the promotion of the applicants as Typists was in excess of the quota of 25% reserved for promotion. They have, however, continuously worked as Typists on ad hoc basis for different periods mentioned in para 6.9 of the application. They were regularised in the post of Typist on subsequent dates mentioned in the same para of the application.

4. The respondents appointed on ad hoc basis the sons and daughters of loyal workers of the Railways during 1974-77 and in the seniority list prepared by them, they were shown to be senior to the applicants. This was on account of regularisation of these persons earlier than the applicants. The applicants are relying upon a catena of decisions of Supreme Court, the High Court and of this Tribunal in support of their contention that they are entitled to reckon their seniority from the date of their ad hoc appointment which was regularised subsequently.*

5. The respondents have contended in their counter-affidavit that a decision was taken to regularise the ad hoc appointments made in excess of the quota in respect of 25% ear-marked for Class IV staff and 20% ear-marked for sons and daughters of loyal staff. All the appointments of sons and daughters of loyal staff made during 1974 to 1977 were treated as regular with effect from the dates on which they were originally appointed. It was also decided that

* Cases relied upon by the applicants:

(1) D.R. Nim Vs. U.O.I., AIR 1967 SC 1301; (2) A. Janardhan Vs. U.O.I., AIR 1983 SC 769; (3) Narendra Chaddha & Others Vs. U.O.I., ATR 1986 SC 49; Kuldip Chand Sharma Vs. Delhi Admin. 1978(2) SLR 379; and (5) S.C. Jain Vs. U.O.I., ATR 1986(2)

similar appointments made in Class IV staff may also be regularised (vide letter of the Railway Board dated 14.4.80 at Annexure R-I page 38 of the Paper-Book). They have contended that the applicants cannot be treated at par with the sons and daughters of loyal workers, as each category was governed by separate sets of rules.

6. We have gone through the records and have heard the learned counsel of both parties. The undisputed factual position is that appointments of Typists from the category of Class IV staff as well as that of sons and daughters of loyal staff was made in excess of the quota ear-marked for them. In view of this, it will be incumbent on the respondents to give both categories the same treatment. According to the well recognised principle of law, in the absence of any rule to the contrary, the seniority should be determined on the basis of continuous length of service and the period of ad hoc service should also be reckoned if such service is followed by regularisation.

7. The learned counsel of the respondents, however, pointed out that some of the applicants are still working on ad hoc basis and that they have not been regularised (applicant No.10 Bodh Raj and applicant No.11 Virender Pal Singh). Those who not have/been regularised will not be entitled to reckon their seniority from the respective date of their ad hoc appointment.

8. In the light of foregoing, we hold that such of those

applicants whose services have been regularised would be entitled to count their seniority from the respective dates of their original ad hoc appointment. Similarly, the seniority of the sons and daughters of loyal workers should also be determined on the basis of their length of service. The period of their ad hoc service will count for seniority only from the respective dates of their regularisation. The respondents are directed to recast the seniority list accordingly within a period of three months from the date of communication of a copy of this order.

9. The application is disposed of on the above lines. The parties will bear their own costs.

Dr. L. K. Rasgotra
(I.K. Rasgotra)
Administrative Member
31/7/87

Partha
31/10/88
(P.K. Kartha)
Vice-Chairman(Judl.)