

(16)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 807/87
MP 3408/92
MP 433/92

Date of decision : 13.11.1992

Shri Mohinder Singh & Others ... Petitioners

Versus

Union of India through ... Respondents
General Manager, Northern Railway,
Baroda House, New Delhi & Others
Coram :-

The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. J.P. Sharma, Member (J)

For the Petitioners ... Shri B.S. Mainee,
Shri B.B. Raval

For the Respondents ... Shri Romesh Gautam

Judgement (ORAL)
(Judgement of the Bench delivered by
Hon'ble Mr I.K. Rasgotra, Member (A))

Shri Mohinder Singh and 80 others, all joined Northern Railway as Khalasis in Class-IV during the period 1974 to 1982. In accordance with the channel of promotion available to them, they appeared for the qualifying examination for promotion to Class III post in the quota of 33.1% of the posts kept for Class IV personnel in accordance with the rules. It is the contention of the petitioners that they had all passed the said examination for the next higher grade post of Lower Division Clerks either in the selection conducted in 1981, 1983 Or 1985. They were all promoted on ad hoc basis as L.D.C.s from the various dates, from 1981 to 1986.

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2. This case was heard at length on 16.10.1992, when a short question that emerged was whether the applicants had passed the written as well as viva voce test. It was the stand of the respondents that they had failed in the viva voce test and even then they were promoted and allowed to continue as L.D.C. They, however, could be regularised in Class III post having failed to qualify in the prescribed selection tests.

When the case came up today for hearing, the learned counsel for the respondents stated that he has got the record relating to examinations of all the 3 years viz 1981, 1983, 1985, and the same can be perused by the Hon'ble Court. It was his contention that while some of the applicants had passed in the selection examination, others had failed in the 1985 examination. While the case was at this stage, Shri B.B. Raval, learned counsel of some of the petitioners, referred us to Miscellaneous Petition No 3408/92 along with which, he has filed a copy of the Orders of the General Manager, Northern Railway, dated 31.12.1990, which is reproduced hereunder :-

"The matter of regularisation of MCOs/clerks has been considered and it has been decided to regularise the MCCs/Clerks as per following procedure.



All the 85 ad-hoc MCCs/Clerks who have completed 3 years of continuous ad hoc service based on their seniority after adjudging their suitability by subjecting them to the prescribed test should be regularised subject to the availability of the posts of MCC's/clerks against promotee quota;

- A) Those who have already qualified the written and viva-voce test and have obtained 60% aggregate marks may be exempted from re-test.
- B) Those who have qualified only written test may be exempted from the same and subjected only to viva-voce test.
- C) Those who have not passed the written and viva-voce test should be subjected to both.

The regularisation should be done from the date of availability of vacancy against promotee quota in Group 'C' in Grade Rs.950-1500 (RPS) and the Roster point should be followed accordingly. Similarly two ad hoc typists working in Shakurbasti Deptt may be regularised after passing suitability test against the vacancy of promotee quota of typist grade Rs.950-1500 (RPS) being controlled by DRM/NDLS.

This has the approval of C.P.O ."

The Learned Counsel submitted that the grievance of the petitioners herein will be redressed if the orders of the General Manager are implemented.

3. Reacting to the above suggestions Shri Romesh Gautam, learned counsel for the respondents submitted that the Respondents will have no objection, if the direction is given to the respondents to regularise the applicants who fulfil the conditions as laid

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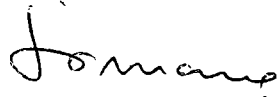
down in the General Manager's **Order dated 31.12.1990** (Annexure M.P-1), reproduced above are regularised in the post of L.D.C. Both, Shri B.S. Mainee and Shri B.B. Raval, learned counsel for the petitioners were also in agreement with this suggestion.

4. In view of the above, we order and direct that the respondents shall regularise the services of the petitioners in accordance with the provisions made in the Order No 561-E/85-123 IV-II.D dated 31.12.90 of the General Manager, Northern Railway.

The above orders shall be applicable to the petitioners who are still in service. The petitioners who have retired from service, shall be fixed notionally where required and their retirement benefits revised and paid accordingly.

5. The above directions shall be implemented most expeditiously and preferably within 3 months from the date of communication of this Order.

The O.A. 807/87, M.P. 3433/92 are disposed of as above. No costs.



(J.P. SHARMA)
MEMBER (J)



(I.K. RASGOTRA)
MEMBER (A)