

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1214/1990. DATE OF DECISION: 16-5-1991.

Shri Ashish Kumar Saha & 18 Ors. .... APPLICANTS.

V/s.

Union of India & Others .... RESPONDENTS.

CORAM: Hon'ble Mr. Justice Ram Pal Singh, V.C. (J).  
Hon'ble Mr. P.C. Jain, Member (A).

Shri B.S. Mainee, counsel for the applicants.  
Shri Jagjit Singh, counsel for the respondents.

(Judgment of the Bench delivered by  
Hon'ble Mr. P.C. Jain, Member (A)).

JUDGMENT

All the 19 applicants in this application under Section 19 of the Administrative Tribunals Act, 1985, were appointed as Booking Clerks on daily wages and were called as Part Time Booking Clerks. They were appointed on various dates as per details given in Annexure A-3, according to which 18 of them were first appointed in 1983 and one was appointed in 1984. Their engagement was not continuous. It was for different periods in different years as under: -

In case of 7 applicants, their last engagement was upto some date in November, 1986.

In case of one applicant, his last engagement was upto 2.1.1984.

In case of one applicant, his last engagement was upto 30.5.1985.

In case of one applicant, his last engagement was upto 31.8.1984.

In case of one applicant, the last engagement was upto 31.7.1983.

In case of one applicant, the last engagement was upto 1.8.1983.

In case of one applicant, his last engagement was upto 30.5.1985.

In case of one applicant, his last engagement was upto 12.8.1983.

In case of one applicant, his last engagement was upto 27.7.1983.

In case of one applicant, his last engagement was upto 17.5.1984.

In case of one applicant, his last engagement was upto 31.8.1984.

In case of one applicant, his last engagement was upto 31.5.1984.

In case of one applicant, his last engagement was upto 18.6.1983.

According to the respondents, as per Annexure R-2 to the counter-reply, the number of days put in by the applicants is as below: -

1. Shri Lal Ram	227 days.
2. " Mithlesh Kumar Singh	10 days.
3. " Vinod Kumar Singh	10 days.
4. " Bharat Ji Singh	146 days.
5. " Vijay Kumar	9 days.
6. " Ram Nara in Rai	199 days.
7. " Anil Kumar Singh	429 days.
8. " Vishveet Halder	275 days.
9. " Ram Kishore Mishar	430 days.
10. " Amrande Kumar Singh	348 days.
11. " Umesh Singh	47 days.
12. " Mahfooz Alam	76 days.
13. " Salil Kumar Dutta	593 days.
14. " Ashok Kumar Singh	94 days.
15. " Nasir Akhtar	Not indicated.
16. " Ashish Kumar Saha	499 days.
17. " Amrande Nara in Pathak	10 days.
18. " Anand Prakash Tewari	15 days.
19. " K.K. Sinha	91 days.

The applicants are aggrieved that they have not been re-engaged despite various representations and in spite of the decision of the CAT in a number of cases and the law laid down by the Hon'ble Supreme Court. They have also claimed the benefits of the said judgments on the basis of the law laid down by the Hon'ble Supreme Court in the case of Amrit Lal Beri v. Commissioner of Taxation (SLR 1973(2) p. 152) on the basis that they are placed in similar situation. They have also relied on the Railway Board's circular dated 6-2-1990 (Annexure A-5). They have prayed for a direction to the respondents to re-engage them and to confer temporary status on those applicants who have completed four months of service.

2. The respondents have filed their reply. They have not controverted as such the case of the applicants. They have, however, submitted that in terms of the Railway Board's

circular dated 6.2.1990 and as clarified in their letter dated 21.1.1991 (Annexures A-5 and R-I respectively), the respondents are willing to consider the applicants who fulfil the requisite conditions for engaging them as Mobile Booking Clerk. It is also stated that at present there are no vacancies with the answering respondent, but as and when vacancies arise, the applicants along with other similarly situated Mobile Booking Clerks who fulfil the requisite conditions, shall be engaged in accordance with the rules. It is further submitted that "even otherwise the case of the applicant who fulfil the condition is under consideration by the respondent in terms of their representation alongwith the cases of other Mobile Booking Clerks". They have contended that in these circumstances, the present application becomes infructuous and the same should be dismissed with costs.

3. We have carefully perused the material on record and have also heard the learned counsel for the parties.

4. It has been laid down by the Railway Board in their circular dated 6.2.1990 (Annexure A-5) that "mobile booking clerks who were engaged as such before 17.11.1986 may be considered for absorption in regular employment against regular vacancies, subject to the other conditions stipulated in the aforesaid letters of 21.4.82 and 20.4.85". It is further stated as below: -

"3. In regard to candidates engaged as mobile booking clerks but discharged consequent on discontinuance of the scheme by the Zonal Railways, as a result of Board's letter of 17.11.1986 referred to above or any earlier instructions to the same effect; they may be re-engaged as Mobile Booking Clerk as and when they approach the Railway Administration for such engagement. Their cases for absorption in regular employment may be considered after they complete three years of service as mobile booking clerks in the same manner as in the case of other mobile booking clerks covered under para 1 above."

In the D.O. letter dated 21.1.1991 (Annexure R-1 to the counter reply) issued by the Railway Board, it has been clarified that such re-engagement will arise only if the discharge had taken place as a result of the Board's letter of 17.11.1986 which had been quashed by CAT (Principal Bench) or as a result of any earlier instructions issued by the Board to this effect. This benefit shall not be admissible to MBCs who were discharged in the normal course by Railway Administration. It is specifically stated in this circular as below: -

"For purposes of re-engagement, the linkage with the availability of vacancies in the category of MBCs is not relevant."

It is also stated that on completion of 120 days service after re-engagement as MBCs, they may be granted temporary status and all attendant benefits as admissible to casual labours with temporary status should also be afforded to them.

5. From the above, it is quite clear that the respondents' contention in their counter-reply where the re-engagement of the applicants is sought to be linked up with the available vacancies is contrary to the instructions issued by the Railway Board, and is thus untenable. Further, the applicants have repeatedly approached the Railway Administration for their re-engagement, but to no effect. It may be stated here that the Railway Board's circulars dated 6.2.1990 and 21.1.1991, already referred to above, use the terms Voluntary / Mobile Booking Clerks, while the applicants were called as Part time Booking Clerks. The applicants have stated in para 4.3 of their application that on some Railways, such staff was called volunteer booking clerks, on some railways mobile booking clerks, while on some railways part time booking clerks and on some railways as volunteer/ticket collectors/coaching clerks. The respondents, in their reply have stated nothing to indicate that the applicants are not covered by the instructions issued by the

Railway Board in the two letters referred to above. In view of the discussion as above, we do not consider it necessary to go into the other contentions in regard to the extension of benefits of other judgments and the plea of discrimination.

6. In the light of the foregoing discussion, the applicants succeed and the O.A. is allowed in terms of the directions as below:

The respondents are directed to re-engage the applicants if they fulfil the conditions laid down in the Railway Board's circular No. E(NG) IL-86/RC-3/87, dated 6.2.1990 as clarified in letter No. E(NG) IL-90/RC-3/106, dated 21-1-1991 and also to confer temporary status on such of the applicants who fulfil the conditions prescribed therein for that purpose. These directions shall be complied with within a period of two months from the date of receipt of a copy of this judgment by the respondents.

In the facts and circumstances of the case, we leave the parties to bear their own costs.

Dec 16/5/1991  
(P.C. JAIN)  
Member(A)

Dec 16/5/1991  
(RAM PAL SINGH)  
Vice-Chairman (J)