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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.W. No. 1830/90

New Delhi: December 9th, 1994.

HON'BLE MR. S.R.ADIGE, MEMBER (A)

HON'BLE MRS LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Bhola Ram,
s/o Shri Babu Ram,
Driver, under Chief Administrative Officer
(Construction, Northern Railway,
Kashmeri Gate, Delhi & 7 others
as per memo of parties)Applicants.
By Advocate Shri B.S.Mainee.

VERSUS

Union of India: Through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Rly. Manager,
Northern Railway,
State Entry Road,
New Delhi.

3. The Chief Administrative Officer
(Construction),
Northern Railway,
Kashmeri Gate,
Delhi.Respondents.

By Advocate Shri Romash Gautam.

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A)

In this application, Shri Bhola Ram and seven others have prayed that the respondents be directed to regularise their services as Drivers from the date they have been promoted on adhoc basis after trade test and further to give them seniority from the date of their adhoc promotion with consequential benefits.

2. The applicants' case is that while applicants No.4 and 5 were appointed as Drivers in 1974, the others were appointed as casual labourers between the years 1972 -1977. All of them

were regularised as Khalasis/ Gangman (196-232/-) between the period 1973-77. It is stated that the applicants No.4 and 5 had been working continuously as Drivers right from the date of their appointments although they had been paid the salary of a Casual Labourer/Gangman but the other six applicants were promoted as Drivers Class III (260-400/-) during the years 1979-83 and have been continuously working as such but have not yet been regularised although they have been declared successful in the trade test. It is stated that in the meantime, the persons junior to them have been given promotion to the next higher grade. It is stated that in 1987, a screening test was held for regularisation but none of the applicants with the exception of applicants No.4 and 5 were called. It has also been stated that the representations had been filed for their regularisation , seniority and promotion , but as that had no effect, the applicants have been compelled to file this O.A. .

3. On 1.2.91, with regard to M.A. No.360/91, interim orders had been passed directing the respondents to call the applicants for screening test to be held on 8.2.91 or thereafter, but their result, however, be not declared. On 16.5.91, those interim orders were made absolute.

4. Meanwhile, the respondents in their reply have denied the averments in O.A. and claimed that all the applicants were initially engaged as Casual Labourers, and were subsequently appointed

as Gangman, Trolleyman, Gatekeeper etc. Thereafter, they were promoted as Drivers on adhoc basis against the work charge~~s~~ posts of Scooter Drivers in the Construction Organisation, through purely local arrangement, on different dates. Their services were being utilised as Drivers as they had Driving Licences and they were also trade tested. This has nothing to do with the normal channel of promotion in their substantive cadres. In this connection, the respondents have referred to Railway Board's letter dated 13.3.72 (Annexure-R1), which allows such adhoc promotions to be made in the Construction Department. They state that the applicants are entitled for regular promotions in their respective cadres in the open line, subject to the availability of regular vacancies according to their seniority which has nothing to do with the adhoc promotions as Drivers. They, therefore, contend that the O.A. has no merit and is fit to be dismissed.

5. The applicants in their rejoinder have admitted in Para 4.3 that the applicants 4 and 5 were screened, but they claim that they continued to work as Drivers. It is alleged that the respondents have made a mockery of the term 'local arrangement', which does not continue for ^{and} decades. The Staff engaged subsequently as Casual Drivers cannot be given preference over the applicants. In case, the applicants have been allowed to work as Drivers on adhoc basis, they cannot be prevented from being regularised on the said posts.

6. We have heard Shri Mainee for the applicant and Shri Romesh Gautam for the respondents. We have also perused the materials on record and

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considered the matter carefully.

7. From these materials, including the notices issued to the applicant Shri Bhola Ram and others, it appears that the applicants, who were initially appointed as Casual Labourers, were subsequently screened and regularised as Khalasis, Gangman, Gatekeeper etc. and were appointed as Drivers on purely adhoc basis through local arrangement in the Construction Division. It was specifically stated in many of these notices that this promotion was purely temporary and would not confer any right to them to claim any seniority over their seniors. Thus, there appears to be merit in the stand of the respondents that the adhoc promotions allowed to the applicants was purely a local arrangement against the Work Charge Posts, which were confined to the Construction Division alone and this had nothing to do with the normal channel of promotion in their substantive cadres. As pointed out by the respondents in their reply, the applicants have not alleged that anybody junior to them have been promoted in their substantive cadres, ignoring them, and this fact has not been denied by the applicant in their rejoinder. Shri Maine has relied on the rulings in Aparmal Yadav Vs. UOI-ATJ 1992(1) 195, Uttam Singh Vs. UOI-1986 SIR 645, S.K.Sharma's case (SLJ 1991 (3) 391) and Piyara Singh's case (SLJ 1992 (3) 35, but none of these cases help the applicant. The applicant can be regularised only in their