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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A.No. 2001/90

Date of Decision: 10-04-92

Vijay Kumar Singh .. Applicant(s)

Shri B.S. Mainee .. Counsel for the applicants

Vs

The Secretary, Ministry of Railways and others .. Respondents

Shri P.S. Mahendru .. Counsel for respondent(s)

CORAM

Hon'ble Mr. S.P. Mukerji - Vice Chairman

Hon'ble Mr. T.S. Oberoi - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgment? Y,
2. To be referred to the Reporter or not? N.

JUDGMENT

(Delivered by Hon'ble Shri S.P. Mukerji, Vice Chairman)

In this application dated 28.8.90 the applicant who was working as a part-time Booking Clerk in the North-Eastern Railway has prayed that the respondents be directed to reconsider the case for regularisation of his services in accordance with the Railway Board's Circular dated 21.4.82 and also to depute him for necessary training.

2. The brief facts of the case are as follows. The applicant was engaged as a part-time Booking Clerk between 16.7.82 and 10.9.86 with intermittent breaks in accordance with the Railway Board's Circular of 21.4.82 at Annexure A.2. In accordance with that Circular such part-time volunteer/mobile Booking Clerks who were engaged per hour per day "can be considered for absorption against regular vacancies provided that they have the minimum qualifications required for direct

recruit and have put in a minimum 3 years service as volunteer/mobile Booking Clerks. The screening for their absorption should be done by a Committee of Officers including the Chairman or a member of the Railway Service Commission concerned." According to the applicant the scheme was withdrawn on 17.11.86 but the Principal Bench of the Tribunal on an application filed by similarly situated persons held that those mobile Booking Clerks who had been engaged prior to 17.11.86 will be entitled to the benefit of regularisation after they had completed three years of service including broken periods. (ATR 1989(2) 37). The respondent No.3 ie., the Divisional Railway Manager (DRM) North-Eastern Railway recommended 13 names including the applicant for screening for regularisation (Annexure.A.4) stating that their work had been found to be satisfactory. The applicant was called for screening and he appeared before the Screening Committee 31.5.89 but in the results of the Screening Committee at Annexure.A.1 he was not included besides one more candidate who was found to be under-aged. He represented on 4.7.89 at Annexure.A.6 and two more representations were also sent by his father but there has been no response. According to the applicant he satisfied all the qualifications and rejection of his case without any reason is illegal. This was not a competitive test but a screening-cum-qualifying test and when his work was found to be satisfactory by the DRM there is no reason why he should be excluded.

3. The respondents have conceded that as the applicant had put in more than 3 years of service, his name was forwarded for screening test for regularisation but as the Committee did not recommend his case he could not be regularised.

4. In the rejoinder the applicant has relied upon the decision of the Patna Bench of the Tribunal in O.A.296/88 (Annexure-A.1 to the rejoinder), the operative portion of which reads as follows:

"In the circumstances, we find that the applicants have a strong case. The impugned orders to the extent that they relate to termination of services are quashed. The respondents are directed to regularise the services of the applicants in terms of the Railway Board's Circular No. E(NG)III-77/RC1/80 dated 21.4.1982 (Annexure-1) within a period of two months from the date of receipt of a copy of this order. However, they will not be entitled to any back wages." (emphasis added)

5. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The Patna Bench of the Tribunal directed the respondents to regularise the services of the applicants before them in terms of the Railway Board's Circular of 21.4.82, a copy of which is at Annexure.A.2. The operative portion of this Circular reads as follows:

"The question of regularisation of these Volunteer Booking Clerks through screening by a Departmental Committee for absorption on the Railways was again discussed by the NFIR during the PNM meeting held with the Board on 23rd and 24th December, 1981. After taking into account all aspects of the case the Ministry of Railways have decided that these Volunteer/Mobile Booking Clerks who have been engaged on the various Railways on certain rates of honorarium per hour or per day, may be considered by you for absorption against regular vacancies provided that they have the minimum qualifications required for direct recruit and have put in a minimum 3 years service as volunteer/Mobile Booking Clerks. The screening for their absorption should be done by a Committee of officers including the Chairman or a member of the Railway Service Commission concerned." (emphasis added)

The above Circular clearly settled down that regularisation can be effected only by screening by a Committee of officers including the Chairman or a Member of the Railway Service Commission. In the Patna Bench judgment

however, the Railways have admitted that more chances than one are contemplated under the above scheme and that three chances in all would in any case be available.

6. In the conspectus of facts and circumstances we allow this application in part to the extent of directing the respondents to allow the applicant, in all three chances to appear before the Screening Committee for regularisation. There will be no order as to costs.

Deben 10.4.92

(T.S. CBEROI)
MEMBER (JUDICIAL)

S.P. Mukerji
10.4.92

(S.P. MUKERJI)
VICE CHAIRMAN

10-04-92

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