

(15)

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.2720/90

New Delhi this the 11th day of December, 1995.

Hon'ble Shri S.R. Adige, Member (A)
Hon'ble Dr A. Vedavalli, Member (J)

1. Shri Shiv Kumar Sharma,
S/o Shri Sita Ram Sharma
 2. Shri Shyam Singh
S/o Shri Sita Ram
 3. Shri A.K. Gupta,
S/o Shri Omprakash Gupta
 4. Shri Rama Kant Rai
S/o Shri Nar Singh Rai
 5. Shri Rama Kant Chaturvedi
S/o Shri D.M. Chaturvedi
 6. Shri Moti Ram
S/o Shri Ramji Lal
ATFO/TD/OHE Depot Veena
Jhansi.
 7. Shri H.K. Pathak,
S/o Shri R.B. Pathak,
CTFO/OHE Depot/
Agra Cantt.
 8. Shri Kushalpal Sharma,
S/o G.S. Sharma
CTFO/OHE Depot
TD/Gwalior
 9. Shri Banwari Lal
S/o Shri R.S. Tewari
CTFO/TD/Agra Cantt
 10. Shri Banwari Lal
S/o Shri Shamlia
TFO/IHE
Depot Dhaulpur
 11. Shri Vidhya Bhushan
S/o Shri S.B. Sharma
CTFO/TD/OHE
Gwalior
- Applicants

(By Advocate : Shri B.S. Mainee)

VERSUS

1. General Manager,
Central Railway, Bombay VT
Bombay
2. The Divisional Railway Manager,
Central Railway,
Jhansi.

3. The Senior Divisional Elect. Engineer,
Central Railway, Agra Cantt.
..... Respondents

(By Advocate : Shri PS Mahendru)

ORDER (ORAL)

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

In this application Shri Shiv Kumar Sharma and 10 others are seeking a direction to the respondents to withdraw the notice issued on 24.11.1990 and regularise their services as lineman to which post they are continuously working for the last more than 6 years, with all consequential benefits.

2. Shortly stated their case is that in response to the notice issued by the Jhansi Division of Central Railway, the applicants applied for the post of Casual Lineman and were selected as such in 1984 except Shri Adarsh Kumar who was appointed on 3.10.1983 and Shri Rama Kant who was appointed on 8.3.1986. They stated that the post of Lineman is a Group 'C' (Class III) post and all the applicants have been appointed as Casual Lineman on daily wages and after the expiry of 120 days continuous service they acquired temporary status and were placed in the scale of Rs.260-400/Rs.950-1500, but the respondents are now seeking to regularise them against posts of Khalsasi which is in Group 'D' Class IV post in the scale of Rs.750-940.

3. The respondents in reply admit that the applicants were screened for the post of Casual Lineman but no practical test was conducted at the same, according to them was not necessary for engagement of casual lineman. The respondents also admit that there is provision in the rules for considering monthly rated casual labour/skilled artisans for filling up vacancies of skilled artisan staff upto prescribed quota, and contend that some of the applicants may have applied, but state further that the old records are not available. They, however, state that the applicants were not empanelled as suitable candidates screened on 4.2.87 and 5.2.87 against recruitment of prescribed quota. The applicants in their rejoinder, however, deny that they were even called for the trade test in 1987, and state that they were never given the opportunity to appear in the trade test/selection for posts of linemen although they have worked as such for more than 10 years.

4. We note by the interim order dated 21.12.1990, the respondents were directed to maintain the status quo as regards the continuance of the applicant in the post of skilled lineman Group III and we are informed that the applicants are continuing as such.

5. We have heard Shri B.S. Mainee, counsel for the applicant and Shri PS Mahendru, counsel for the respondents. In this connection, Shri

18

Mainee has invited our attention to the Tribunal's judgement dated 25.7.1995 in O.A. No.1021/91 Raghunath Dubey Vs. DRM Central Railway Jhansi; wherein also the applicant who was appointed as a Electrical Fitter on Casual basis and then continued in that capacity for a number of years apprehended that the respondents would regularise him only in Class IV category. That O.A. was disposed of with the following directions to the respondents :-

"We have gone through the pleadings in the case and also heard learned counsels for the parties. It is not indispute that from 1984 onwards, the applicant has been working as as highly skilled fitter. We have perused the service sheet records and personal file of the applicant, which shows that from 1984 onwards the applicant has been working as highly skilled fitter grade II (MRCL). The respondents have not brought to our notice any record to show that the applicant was ever trade tested and was found unsuitable. Therefore, the contention of the respondents that the applicant was trade tested and was found unsuitable for promotion towards 121/2% of the promotion quota has not been established. Since the claim of the applicant is only for regularisation as highly skilled Electric Fitter, and the respondents admit in their reply that the applicant is entitled to be so absorbed but only after trade test and screening, we are of the considered view that as the controversy involved in the case has narrowed down to a considerable extent the application can be disposed of with directions to the respondents to consider absorption of the applicant after the required trade test, as a highly skilled Electric Fitter Grade-II towards 12 1/2% of the vacancies in the promotion quota in his turn and that till such date he is so absorbed, he may be continued as MRCL highly skilled fitter subject to the risk of retrenchment for want of a vacancy. The application is disposed of with the above directions without any orders as to costs."

6. We are of the view that the ratio of the said judgement is fully applicable in the present case also and the respondents have not denied that the applicants are working continuously as lines men since 1983-86. Accordingly this O.A. is disposed of with a direction to the respondents to put the applicants through the required trade test as early as possible and if they are successful therein, consider regularising them as electrical fitters/lineman Grade III (Rs 950-1500) against the prescribed promotion quota vacancies strictly in their turn in accordance with rules, and subject to fulfilment of all other prescribed conditions by them. Till such time as they are put through the trade test they may continue as skilled linemen Grade III, which posts they are presently holding with temporary status.

7. This O.A. stands disposed of accordingly. No costs.

A. Vedavalli

(Dr A. Vedavalli)
Member (J)

S.R. Adige
(S.R. Adige)
Member (A)

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