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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-897/90

New Delhi this the 9th day of July, 1998.

Hon'ble Sh. T.N. Bhat, Member(J)
Hon'ble Sh. S.P. Biswas, Member(A).

1. Sh. Joginder Singh,
S/o Sh. Rikhi Singh,
Fuel Issuer under the
Senior Divl. Electrical
Engineer, Northern Railway,
Ghaziabad.
2. Sh. Harish Chander Sharma,
S/o Sh. Lal Chand,
Telephone Clerk under the
Loco-Boreman, Northern Railway,
Ghaziabad. Applicants

(through Sh. V.K. Mehta, advocate - Not present)

versus

Union of India through

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

(through Sh. R.L. Dhawan, advocate)

ORDER(ORAL)

Hon'ble Sh. T.N. Bhat, Member(J)

None for the parties even though this matter was given a pass over. On 7.7.98 also none appeared for the parties. Prior to that also, on 19.3.98 nobody appeared for the applicant. This matter being an old case, having been instituted in 1990 and the Hon'ble Supreme Court also having observed in the judgement remanding this matter to the Tribunal that the Tribunal should dispose of the matter expeditiously, we do not

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find it appropriate to further adjourn the matter. We have accordingly examined the entire material on the file including the "list of dates and events" furnished by the applicants' counsel some time in the month of February 1997 which is on the file. At this stage, Sh. R.L. Dhawan, learned counsel for the respondents appeared and we have heard him.

2. The essential facts are not disputed. Both the applicants were appointed to Group-D posts in the years 1965 and 1951, respectively. However, they came to be promoted to Group-C posts as Fuel Issuer and Telephone Clerk, respectively, but on ad hoc basis and they continued to work for 9 years and 12 years, respectively, till their services were regularised in the year 1989, after being found suitable, in pursuance to the selection based upon viva voce held on 29.5.89 and 13.6.89.

3. Even though the applicants had worked on ad hoc basis in Group-C posts for a number of years, the respondents seem to have assigned seniority to them only from the dates of regularisation of their services. It is this apprehended action of the respondents that the applicants have assailed in this O.A. Their contention is that the period of ad hoc service extending to 9 & 12 years, respectively, should be counted for the purpose of their seniority.

4. The respondents have resisted the O.A. on the ground that the applicants could have been promoted only after passing the selection and since

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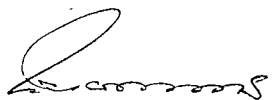
7. As already stated, the case of the respondents was mainly based upon the judgement of the Tribunal in Rajbir Singh's case (supra). The Tribunal also relied upon certain observations made by the Apex Court in Direct Recruit Class II Engineering Officers Association & Ors. Vs. State of M.P. & Ors. (JT 1990(2) SC 265). But the observations of the Hon'ble Supreme Court in Rajbir Singh's case (supra) made it quite clear that where promotions have been granted from Class-IV to Class-III on ad hoc basis but the service in Class-III is regularised after lapse of several years, the period of ad hoc service should be counted for determining the seniority in Class-III posts. This was also the view of the Apex Court in the Direct Recruits case (supra) as it was held under proposition "B" that where appointment/promotion is not made in accordance with the rules but the ad hoc service continues for a long period which is eventually followed by regularisation, the ad hoc service has to be counted. In view of these clear pronouncements of the Apex Court, the ad hoc service of the applicants followed by their regularisation after passing the selection is required to be counted.

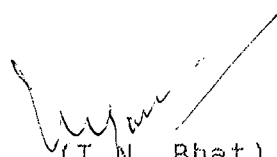
8. However, since a large number of employees who might have entered in Class-III of the service in the meantime i.e. before the services of the applicants were regularised, are likely to be affected, we deem it proper, while directing the respondents to count service of the applicants for the purpose of seniority to ask the respondents to issue

by order

show cause notice to the persons likely to be affected and thereafter take a final decision in the matter in the light of the observations made by us hereinabove.

9. In the result, this O.A. is allowed and the respondents are directed to consider counting ad hoc service of the applicants in Class-III and for this purpose, to give opportunity of being heard to the persons likely to be affected and, thereafter, take a decision in the matter in the light of the observations made by us hereinabove. This judgement shall be implemented within a period of 4 months from the date of receipt of a copy of this order. No costs.


(S.P. Biswas)
Member (A)


(T.N. Bhat)
Member (J)

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