

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 2073/91  
T.A. No.

199

DATE OF DECISION 19.2.1992

<u>Shri Ashraf Khan &amp; Others</u>	<u>Petitioner Applicants</u>
<u>Shri V.P. Sharma</u>	<u>Advocate for the Petitioner(s) Applicant</u>
Versus	
<u>Genl. Manager, Northern Rly. &amp; Others</u>	<u>Respondent</u>
<u>Shri B.K. Aggarwal</u>	<u>Advocate for the Respondent(s)</u>

## CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dheundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the fair copy of the Judgement? NO
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice-Chairman)

The applicants, who have worked as casual labourers since 1978-80, are aggrieved due to their non-regularisation in suitable posts by the respondents. They have sought for a declaration that the respondents should be restrained from compelling them to work in Locomotive/Mechanical Department.

2. The applicants have worked in the Traffic and Commercial Department but have been directed to work as casual labourers in Locomotive/Mechanical Department. They have stated that they have been screened and empanelled for the purpose of regularisation by order dated 4.1.1988 but they have not yet been

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regularised on the basis of the judgement of the Supreme Court in Inder Pal Yadav's case, 1985 (2) SCC 649. They have contended that unless a casual labourer is regularised, he cannot be transferred from one status to another for any reason. They contend that they have a prescriptive right to be appointed in the Traffic & Commercial Department of the Railways. They have relied upon the provisions of Rule 2501 of the Indian Railways Establishment Manual, according to which, casual labourers are not liable to transfer.

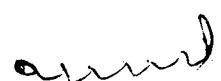
3. The respondents have stated in their counter-affidavit that except applicant No.12 (Shri Ramesh), all other applicants have already joined their duties in Loco Department where the vacancies are available. They will not be rescreened for regular absorption against the vacancies available. Sufficient number of vacancies are not available in the Traffic/ Commercial Department and, therefore, the applicants are being posted on regular basis where posts are available in Loco Mechanical Department and other departments. The respondents have stated that the services of the applicants have been regularised in the Mechanical Department. They have also denied that the applicants have any prescriptive right to continue in the Traffic and Commercial Department. They have, however, no objection to the applicants' also being considered for appointment in the Traffic and Commercial Department, depending on the availability of future vacancies and the seniority of the persons concerned.

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4. We have carefully gone through the records of the case and have considered the rival contentions. The respondents have not produced a copy of the order whereby the applicants have been regularised in regular posts in the Loco Mechanical Department. As the respondents have stated that the applicants have been regularised, the latter cannot have any grievance on that score. In our opinion, after regularisation, a casual labourer can be appointed in any assignment at any place, depending on the availability of the vacancies.

5. In the light of the above, the application is disposed of with a direction to the respondents to issue the orders of regularisation in respect of the applicants and make available a copy of the same to them, if this has not already been done, within a period of two months from the date of receipt of this order. The applicants should also be given an option to work in the Traffic and Commercial Department whenever vacancies arise in that Department. In case they give their option in writing, they should be considered for appointment in the Traffic & Commercial Department on the basis of their respective length of service and in the vacancies available. The application is disposed of accordingly. There will be no order as to costs.

  
(B.N. Dheundiyal)  
Administrative Member

  
19/2/92  
(P.K. Kartha)  
Vice-Chairman (Judl.)