

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO. 268/91

DATE OF DECISION: 28.1.92

SHRI PARBHAT KUMAR & ANR.

...APPLICANTS

VERSUS

UNION OF INDIA & OTHERS ...RESPONDENTS

CORAM:

HON'BLE MR. T.S. OBEROI, MEMBER (J)

HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANTS SHRI B.S. MAINEE, COUNSEL

FOR THE RESPONDENTS SHRI P.S. MAHENDRU, COUNSEL

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*

2. To be referred to the Reporter or not? *No*

*I.K. RASGOTRA*  
(I.K. RASGOTRA)

MEMBER (A)

*T.S. Oberoi*  
(T.S. OBEROI)

MEMBER (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI  
OA NO.268/91 DATE OF DECISION: 28.1.1992  
SHRI PARBHAT KUMAR & ANR. ...APPLICANTS

VERSUS

UNION OF INDIA & OTHERS ...RESPONDENTS

CORAM:

HON'BLE MR. T.S. OBEROI, MEMBER (J)

HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANTS SHRI B.S. MAINEE, COUNSEL

FOR THE RESPONDENTS SHRI P.S. MAHENDRU, COUNSEL

JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE

MR. I.K. RASGOTRA, MEMBER (A))

Shri Parbhat Kumar and Shri Joginder Kumar have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 assailing the Railway Board's order No.E(NG)II/86/RC-3/87 dated 17.11.86 regarding discontinuing the scheme of employment of the wards of the Railway employees as volunteer/mobile booking clerks on honorarium basis for clearing summer rush etc. The applicants herein were employed as additional booking clerks at Pilibhit Station in Izatnagar Division of the North Eastern Railway for the periods given below:-

Applicant No.1

From	To
29.4.1983	30.4.1983
2.5.1983	4.5.1983
20.5.1983	31.5.1983
1.6.1983	10.6.1983
1.9.1983	10.9.1983
21.1.1984	31.1.1984
21.5.1984	31.5.1984
21.9.1984	30.9.1984
1.10.1984.	10.10.1984
1.5.1985	31.5.1985

Applicant No.2

1.8.1983	10.8.1983
21.12.1983	31.12.1983
21.5.1984	31.5.1984
1.9.1984	20.9.1984

The period of employment of the applicants has been certified vide Annexuer A-3 (pages 20 & 21 of the paper book). While Shri Parbhat Kumar s/o Shri K.M. Lal (applicant No.1) Coaching Superintendent N.E. Railway had worked for 109 days during the period 29.4.1983 to 31.5.1985 in different spells, Shri Joginder Kumar s/o Shri Karam Chand, ASM/Pilibhit had worked for 10 days during the period from 1.8.1983 to 10.8.1983. Both the applicants are wards of the Railway employees for whose benefits the scheme of volunteer/mobile booking clerks was introudced by the respondents on payment of honorarium basis to clear the summer rush etc.

2. A large number of cases have already been decided in regard to this category of employees leading to the issuance of Railway Board's letter No. E(NG)II- 06/AC-J/87 dated 6.2.1990. The relevant portion of the said letter reads as under:-

"2. In the light of judgment dated 26.8.87 of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No.1174/86 (Neera Mehta and others Vs. UOI and Others) and dismissal of SLP No.14518 of 1987 by the Hon'ble Supreme Court on 7.9.1989, Board have decided that the cut off date of 14.8.1981 referred to above will be substituted by 17.11.1986. Accordingly, mobile booking clerks who were engaged as such before 17.11.1986 may be considered for absorption in regular employment against regular vacancies, subject to the other conditions stipulated in the aforesaid letters of 21.4.1982 and 20.4.1985.

3

3. In regard to candidates engaged as mobile booking clerks but discharged consequent on discontinuance of the scheme by the Zonal Railways, as a result of the Board's letter of 17.11.1986, referred to above on any earlier instructions to the same effect, they may be reengaged as Mobile Booking Clerks as and when they approach the railway administration for such engagement. Their cases for absorption in regular employment may be considered after they complete three years of service as mobile booking clerks in the same manner as in the case of other mobile booking clerks covered under para 1 above.

4. Implementation of these instructions will, however, be subject to any direction(s) which may have been given by any of the benches of the Central Administrative Tribunal and/or Supreme Court and which directions might have become final, either in any individual case or group of cases, in which event such direction(s) will provide in those individual cases."

3. According to the learned counsel Shri B.S. Maine, the applicants had approached the railway administration for re-engagement but they did not receive any positive response. The learned counsel therefore prayed that the applicants be provided relief, as prayed for, by directing the respondents to re-engage them and grant them full benefits as given in **Miss Usha Kumar Anand v. UOI 1989 (2) 37** and further to confer temporary status on them after having completed four months' of service and thereafter to regularise them in accordance with the instructions of the Railway Board.

2

(V)

4. Shri P.S. Mahendru, learned counsel for the respondents took the plea of limitation in the course of hearing with great tenacity and fervour and cited the following judicial pronouncements in support of his plea simultaneously praying that the case be dismissed on this basis alone:-

- i) 1975 (4) SCC 74 Anant Lal Berry v. Collector of Central Excise.
- ii) 1974 (2) SC 1256 Banwari Lal v. UOI
- iii) 1989 (3) 530 JT 530 S.S. Rathore vs. State of M.P.

The learned counsel also tried to distinguish the present case from the others by stating that the applicants in the present case were not employed under the 1973 scheme of the Railway Board meant for clearing the summer rush etc. by employing the children and wards of the railway employees.

5. We have given our careful consideration to the rival contentions and are of the view that the applicants before us were engaged as volunteer/additional booking clerks under the 1973 scheme commended by the Railway Reforms Committee for helping the employees of the Railway servants on the one hand and clearing the summer rush etc. on the other, by part time engagement. This fact is obvious from the extract of the scheme under which the applicants were engaged by the respondents (page 37 of the paper book), which reads as under:-

"CCS should immediately pin-point the stations where such staff should be employed and the following should be made the pre-conditions:-

(a) Staff should be the dependent unemployed children of the railway employees working at that particular station.

(b) There should be a method of rotation so that the railway employees including daughters get equal opportunity in giving part-time jobs to their

(2)

children.

(c) Each employee shall undertake to accept the debits, if any coming up in the sale of tickets by their dependent children and that money would be recoverable from the employees salary."

There is no other scheme but the scheme of 1973 Scheme of the Railway Board which authorises preferential treatment for the children/wards of the Railway employees for engagement on honorarium basis to clear summer rush etc. The Annexure R-1 further makes it clear that these additional booking clerks were employed at Rs.2.25 only per hour as honorarium to be paid to the volunteer/additional booking clerks engaged in accordance with the instructions issued by the CCS vide his D.O. letter dated 16.4.1983. The said instructions cannot be construed as ~~an~~ independent of the scheme of the Raiway Board. All that the CCS has done is to articulate the Railway Board's scheme as a version of the North Eastern Railway. We are also not persuaded to accept the argument of the limitation so fervently addressed by the learned counsel for the respondents. Even the Railway Board in its circular letter dated 6.2.1990 issued in pursuance of the various judgements of the Central Administrative Tribunal has not fixed any time schedule to deal with such cases. The Railway Board's instructions stipulate that the volunteer/mobile booking clerks "may be reengaged as mobile booking clerks as and when they approach the railway administration for engagement." (emphasis supplied) Thus no time frame has been laid down by the Railway Board and the Railway Board's circular ibid thus gives a cause of action for those persons to whom the information regarding the various decisions of the Central Administrative Tribunal has not percolated.

In the circumstances of the case, we do not see any reason to deny the benefits given to the similarly situated persons by the Tribunal through various judgements listed hereunder:-

- i) Miss Neera Mehta & Ors. v. UOI ATR 1989 (1) 380
- ii) Decision of the Principal Bench in OA 896/88 dated 4.6.90 Shri Mohinder Kumar v. UOI & Ors., disposing of a batch of 24 OAs.
- iii) Usha Kumar Anand (Supra)
- iv) O.A. 1584/89 Shri M.S. Gangaikondan v. UOI & Ors. alongwith three other OAs decided on 2.7.91.
- v) OA No.1694/90 Vijay Kumar Ram v. UOI & Ors. decided on 17.1.92.

As there are no special features which distinguish the present case from the other cases decided by us, the O.A. is therefore allowed. Accordingly, we direct the respondents to reengage/regularise the applicants herein and to absorb them against regular vacancies on completion of three years service subject to their fulfilling other conditions as laid down in the Railway Board's letter dated 21.4.1982 and 20.4.1985. We further direct the respondents to confer temporary status with all attending benefits on the applicants herein after they complete/completed four months service as Mobile/Part Time Booking Clerk in accordance with the terms of engagement. The period of 4 months shall be counted irrespective of the number of hours put in on any particular day. We further direct that in case the applicants have become over-age since their services were terminated, they shall be allowed relaxation in age limit for the purpose of regularisation to avoid hardship. The period of service already put in by them before their services were dispensed with would count for reckoning completion of three years period of service which is one of the pre-requisites for regularisation/absorption.

2

The O.A. is disposed of as above, with no order as to costs.

*I.K. Rasgotra*  
(I.K. RASGOTRA) 28/1/92

MEMBER (A)

*T.S. Oberoi* 28.1.92

(T.S. OBEROI)

MEMBER (J)

'SKK'