

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

1694/90

O.A. No. 796/91

198

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DATE OF DECISION 17.1.92.

Shri Vijay Kumar Ram
Shri Girish Chander Saxena

Applicant (s)

Shri B.S. Mainee,

Advocate for the Applicant (s)

Versus

Union of India & Ors.

Respondent (s)

S/Sh. Jagjit Singh & B.K. Aggarwal

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. I.K. Rasgotra, Member (A)

The Hon'ble Mr. J.P. Sharma, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *yes*
4. To be circulated to all Benches of the Tribunal ? *yes*

J.P. Sharma
(J.P. Sharma)
Member(J)

17.1.92.

I.K. Rasgotra
(I.K. Rasgotra)
Member(A)

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.1694/90

DATE OF DECISION: 17.1.1992.

SHRI VIJAY KUMAR RAM

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

OA NO.796/91

SHRI GIRISH CHANDER SAXENA

...APPLICANT

VERSUS

UNION OF INDIA

...RESPONDENTS

CORAM:

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

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT SHRI B.S. MAINEE, COUNSEL

FOR THE RESPONDENTS SHRI JAGJIT SINGH, &

SHRI B.K. AGGARWAL, COUNSEL.

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE

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

Shri Vijay Kumar Ram in Original Application No.1694/90 and Shri Girish Chander Saxena in O.A. No.796/91 filed under Section 19 of the Administrative Tribunals Act, 1985 have challenged the Railway Board's order No.E(NG)II/86/RC-3/87 dated 17.11.1986.

2.(i) The undisputed facts of the case in O.A. 1694/90 are that the applicant was appointed as a Part Time Booking Clerk on payment of Rs.1 per hour vide D.R.M (C) Sonpur letter dated 9.5.1983. He continued to work as such till his services were discontinued in pursuance of Railway Board's letter No.E(NG)II/87/RC-//87 dated 17.11.1986 according to which the scheme of employing volunteer/mobile booking clerks from among the children/wards of the Railway employees was discontinued.

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2(ii) The case of the applicant in OA 796/91, however, is that he was initially engaged on 17.11.1983 as a Mobile Booking Clerk upto 16.12.1983 and again from 11.1.1984 to 17.1.1984 and from 17.1.1984 to 9.2.1984 and again from 13.2.1984 to 12.3.1984. The applicant is the son of a Railway Employee and was employed under the scheme circulated by the Railway Board for clearance of summer rush in August, 1983 in pursuance of the Railway Convention Committee.

By way of relief both the applicants have prayed that the respondents be directed:

- i) to re-engage them as their cases are fully covered by the judgement rendered by the Tribunal in **Usha Kumar Anand & Ors. v. UOI & Ors. ATR 1989 (2) CAT 37**
- ii) To confer temporary status on them after their having completed 4 months of service and to treat him as temporary employee as per Railway Rules.

3. Since in both the OAs identical issues of law and fact are involved, we proceed to decide both the OAs through this common judgement.

4. We have heard the learned counsel for both the parties and perused the records. There have been quite a few cases where the Tribunal had rendered judgements relating to various aspects emanating from the engagement of the volunteers/mobile booking clerks in various forms on different Railways. These are:-

- i) **Miss Neera Mehta & Ors. v. UOI ATR 1989 (1) CAT 380**
- ii) **Usha Kumar Anand (supra)**
- iii) Decision of the Principal Bench in OA 896/88 dated 4.6.1990 **Shri Mohinder Kumar vs. UOI & Ors.**, disposing of a batch of 24 O.As and;
- iv) **O.A. 1584/89 Shri M.S. Gangaikondan v. UOI & Ors.** alongwith three other OAs decided on 2.7.1991.

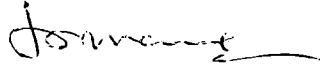
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The case of the applicant in OA 1694/90 falls under the third group of OAs dealt with in paragraph 11 of our judgement in **Shri Mohinder Kumar v. UOI** (OA No.896/88) (supra).

On the other hand, the only distinguishing feature which was highlighted by the learned counsel Shri B.K. Aggarwal, for the respondents in OA 796/91 was that the applicant had hardly put in total service of 85 days during the period 1983 and 1984 whereas in other cases decided by the Tribunal and referred to above the applicants had put in much longer service. We are, however, not persuaded to accept the argument that this case is any different from the other cases, as the applicant could not have been employed under any other scheme, as there was none other which regulated the employment of the mobile booking clerks. Further, he was employed prior to the crucial date of 17.11.1986 and his service was also dispensed with prior to that date. He is therefore, entitled to the same benefits as have been granted to the applicants in the cases referred to above.

In view of the above, we do not propose to enter into a detailed discussion of the two OAs before us. It would suffice to say that for the reasons adduced in our judgements cited above, we allow the application and order and direct the respondents to re-engage/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 letters dated 21.4.1982 and 20.4.85. 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. The O.A. is disposed of as above, with no order as to costs.


(J.P. SHARMA)
MEMBER (J)


(I.K. RASGOTRA)
MEMBER (A)

17/1/92

January 17, 1992.