

67

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1479/92

Date of decision:19.08.1993.

Sh. Yogender Kumar Sharma Applicant

versus

Union of India & Ors. Respondents

Coram:-

The Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

The Hon'ble Mr. B.N. Dhoundiyal, Member(A)

For the applicant : Sh. B.S. Maine, counsel

For the respondents : Sh. Romesh Gautam, counsel

JUDGEMENT(ORAL)

(delivered by Hon'ble Mr. Justice S.K. Dhaon, V.C.)

The petitioner has come up with the application that he is the son of Sh. B.D. Sharma who was at one time employed as Booking Clerk in the Northern Railway at Tundala. He was appointed as Booking Clerk and was called as Volunteer/Mobile Booking Clerk and worked in that capacity at Railway Station, Aligarh from 19.06.1983 to 30.06.1983.

The prayer, in substance, is that the respondents may be directed to re-engage him in accordance with the decision given by this Tribunal and thereafter the applicant be given temporary status.

8y

On '7.9.1992, 14.01.1993 and 12.07.1993, the respondents were granted time to file their counter-affidavit. On each occasion, they were granted 4 weeks' time but no counter-affidavit has been filed so far. The learned counsel for the respondents states that he has received some comments now. He prays for more time. We are not inclined to grant him any further time.

We have heard the learned counsel for the respondents. He has urged that no one by the name of Sh. Yogender Kumar Sharma ever worked as Booking/Volunteer Clerk. He has tried to produce some paper to indicate that some one in the name of Sh. Yogender Kumar Sharma is on record. There has been no documentary evidence to indicate that Sh. Yogender Kumar Sharma son of Sh. B.D. Sharma had been engaged at Aligarh Junction from 19.6.1983 to 30.6.1983. The first document is the certificate dated 13.8.1990 issued by K.C. Gautam, Station Superintendent, Northern Railway, Aligarh. The second document is again the certificate issued by the said Sh. Gautam on 17.10.1991 which was issued in respect of one Sh. Yogender Kumar Sharma. The third document is an application/representation given by Sh. Yogender Kumar Sharma son of Sh. B.D. Sharma, Guard Tundala Northern Railway, Aligarh. On that representation there are certain notings. There is no noting to the effect that Sh. Yogender Kumar Sharma who made the representation is not a genuine person. The last document is a communication dated December, 1991 of the DRM, Allahabad to the General Manager, Northern Railway, New Delhi and

the said communication too with reference to Sh. Yogender Kumar Sharma son of Sh. B.D. Sharma. We are satisfied that the petitioner is a genuine person.

In the absence of any counter-affidavit, we have no option but to record the finding that the petitioner did work as a Volunteer Booking Clerk, Northern Railway, Aligarh from 19.6.1983 to 30.6.1983.

The controversy raised in this application is the same as was in the case of Miss Usha Kumari Anand & Ors. Vs. U.O.I. & Ors. decided by the Tribunal on 23.5.1989 reported in ATR 1989(2) Page 37 in paragraph 35, which is under the heading "Conclusions" It is recited: "that following the decisions of the Tribunal in Neera Mehta's case and Samir Kumar Mukherjee's case, we hold that the length of the period of service put in by the applicant in itself is not relevant. Admittedly, all these applicants had been engaged as Mobile Booking Clerks before 17.11.1986. In the interest of justice, all of them deserve to be reinstated in service irrespective of the period of service put in by them. Those who have put in continuous service of more than 120 days, would be entitled to temporary status, with all the attendant benefits. All persons should be considered for regularisation and permanent absorption in accordance with the provisions of the scheme. In the facts and circumstances of these cases, we do not, however, consider it appropriate to direct the respondents to pay back wages to the applicants on their reinstatement in service. The period of service already put in by them before their

89

services were terminated, would, no doubt, count for completion of 3 years period of service which is one of the conditions for regularisation and absorption."

We dispose of this application in terms of the aforesaid directions given in the case of Miss Usha Kumari Anand & Ors. There shall be no orders as to costs.


(B.N. Dhoundiyal)

Member(A)


(S.K. Dhaon)

Vice-Chairman

/vv/

190893