

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2556 of 1992

New Delhi, this the 24th day of February, 1998

Hon'ble Mr. N. Sahu, Member (Admnv)
Hon'ble Dr.A.Vedavalli, Member (J)

Gurpreet Singh S/o Sh. Balwant Singh,
Working as Material Checking Clerk, under
Lend Control Inspector, Northern Railway,
DRM Office, New Delhi, Resident of D-11,
College Lane, New Delhi
- APPLICANT

Versus

1. Union of India through the Secretary,
Ministry of Railways, Railway Board,
Railway Bhawan, New Delhi.
 2. The General Manager, Northern Railway,
Baroda House, New Delhi.
 3. The Divisional Railway Manager, Northern
Railway, New Delhi.
- RESPONDENTS

(By Advocate Shri D.S.Mahendru proxy
counsel for Shri P.S.Mahendru)

O R D E R

By Mr. N. Sahu, Member (Admnv) -

The applicant impugns circular dated 7.1.1992 which debars him from consideration for selection for the post of Clerk grade Rs.950-1500 against 33 and 1/3 per cent quota and seeks a direction to the respondents to consider him for selection for the post of Material Checking Clerk (in short "MCC").

2. The impugned circular prescribes that only incumbents who have completed three years of service should be considered eligible for selection to the post of Office Clerk/MCC against promotee quota for

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Group 'D' post and should be called along with other willing Group 'D' staff of eligible categories.

3. The applicant was recruited as a Khalasi through Sports quota in the DRM office on 7.7.1987 in the grade of Rs.750-940. He was asked to officiate as MCC in Group 'C' in the grade of Rs.950-1500 with effect from 29.3.1989 on adhoc basis. On 19.8.1991 he along with 14 others who were officiating as MCCs were reverted to Group 'D' on the ground that a field staff is not entitled to be absorbed in clerical channel. Thus, the applicant was back to his job as Work Khalasi with which he had began, although he claims that he was doing an office job. He states that vide DPO's letter dated 2.1.1992 12 persons out of the 15 who were reverted on 19.8.1991 were taken back as MCCs. His appeal fell on deaf ears. His grievance is that he completed three years of service as a regular Group 'D' employee working in the office of respondent no.3 and is fully eligible to be considered in the selection held under a notification dated 20.1.1992. He is aggrieved against the note given Annexure-A-2 that Class-IV line staff is not eligible to appear in the selection. He claims that certain candidates appearing in items 39 to 50 in Annexure A-2 and 3-13 in Annexure A-3 have been inducted for selection which was not in accordance with law. This is all the more unjust because the selection is only for regular Group 'D' employees and not casual labourers whereas items 39 to 50 happen to be casual labourers.

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4. After notice, the respondents state that the applicant was an adhoc MCC initially for two months with the understanding that it would not confer upon him any right for future promotion, that too, against a work charged post. His services were extended thereafter. He was subsequently reverted as a work khalasi on 19.8.1991. It is stated in the counter that the persons shown in the list are screened and eligible whereas the applicant was not within the zone of consideration for this selection. The joint representation dated 17.9.1991 was considered and it was found that no one who was junior to the applicant was ever regularised and only such employees who obtained stay orders in their favour were allowed to continue as adhoc MCCs. With regard to Shri Ramesh Kumar and Shri Raghubir Singh, they were appointed much earlier to the applicant and they were also screened prior to him and thus they were allowed to continue as MCCs on adhoc basis. The applicant's contention that the selection to MCC is exclusively for regular Group 'D' employee in addition to their own channel of promotion is denied by the respondents. The respondents state that for a work charged Khalasi the direct promotion is in the artisan category subject to the passing of the trade test and not to clerical cadre. It is stated that the respondents have arrived at a decision after discussion with the trade unions. Under this arrangement which is spelt out in their letter no.561-E-85-1321 dated December, 1991 all those who

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were officiating as MCCs and have completed three years of service were eligible to appear in the selection against the promotion quota for Group 'D'.

5. The arguments of the applicant are briefly summed up as under.

6. Persons impugned in serial no. 39 to 50 cannot be conferred eligibility simply because they were screened. Juniors were given the benefit of service regularisation because they could obtain stay orders. The applicant should not be discriminated against for not moving the Court and obtaining the stay order. In the absence of a seniority list the persons included in the selection test cannot be stated to be senior. Junior persons as well as casual labourers who were not even absorbed in Group 'D' vacancies were sought to be regularised in Group 'C'. The applicant states that he was senior to all other persons who were called for selection vide letter dated 20.1.1992.

7. Except the pleadings on record, there was no representation from the applicant. The respondents counsel was heard and we proceed to dispose of this OA as under.

8. Under challenge in this OA is Annexure-A-1 dated 7.1.1992. We do not find any ground to hold that the guidelines contained in this letter dated 7.1.1992 for regularisation of MCCs can be faulted. This notification states that those incumbents who

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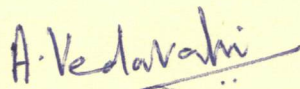
have completed three years of service are eligible for selection to the post of MCC against promotee quota for Group 'D' staff. The applicant did not complete the three years of service. The fact remains that the applicant cannot question his reversion because he was holding only the job of an adhoc MCC without any rights for regularisation. The selection is a one time measure and is confined to persons who have put in three years of service as MCC. It is not the applicant's case that 50 persons mentioned in Annexure -A-2 have not put in three years of service as adhoc MCCs and persons in the Peons category are senior to the applicant.

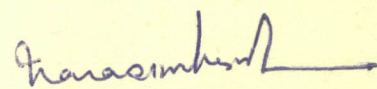
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9. We have carefully considered the very elaborate rejoinder of the applicant. We will not at this stage distinguish between casual labourers and Group 'D' officials because this was a matter of arrangement and understanding between the respondents and the unions as a result whereof to clear certain backlogs certain Group 'D' persons were considered for the test for MCC posts. The applicant's line of promotion is not clerical. This adhoc deal is a one time measure. It is unfortunate that the applicant did not put in three years as adhoc MCCs. We cannot at this stage question an arrangement arrived at keeping in view the over all interests of the organisation. We do not find anything illegal in the selection process contemplated. The applicant can if he is qualified appear for the post of Artisan and other skilled grades. We also cannot at this stage entertain the claim that certain persons who because

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of stay obtained by the Courts were allowed to continue as adhoc MCCs and thus gained seniority. That is a process which the applicant could have availed of but did not. If a Court order protected a particular person and the applicant slept over his right at that time, he should not complain at a later date. We do not find any merit in this application. The O.A. is dismissed. No costs.


(Dr. A. Vedavalli)
Member (Judicial)


(N. Sahu)
Member (Admnv)

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