

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 314/92

12

HON'BLE JUSTICE CHETTUR SANKARAN NAIR(J), CHAIRMAN
HON'BLE SHRI R.K.AHOOJA, MEMBER(A)

New Delhi, this 20th day of September, 1996

1. Shri Raj Kumar Roy
s/o Shri Ram Swath Roy
Ex-Volunteer Ticket Collector
under Station Superintendent
Samastipur
presently:

753, Ram Pal Campus
Siraspur
Delhi - 110 042.& 2
2. Shri Sushil Kumar Lal
S.S.Banmankhi
Ex-Volunteer Ticket Checking Staff
R/o B-151, Raghbir Nagar, New Delhi-27.
3. Shri Nakul Chandra Mandal
s/o Shri Nirmal Kumar Mandal
S.S.Banmankhi
Ex-Volunteer Ticket Checking Staff.
B-151, Janta Colony Raghbir Nagar

(By Shri B.S. Mainjee, Advocate)

VERBUSES

Union of India: Through

1. The Secretary
Ministry of Railways
Rail Bhawan
New Delhi.
2. The General Manager
Northeastern Railway
Gorakhpur.
3. The Divisional Railway Manager
North Eastern Railway
Samastipur.

ORDER

R.K.AHOOJA, MEMBER(A)

Applicants three in number challenge the termination of their services as Volunteer Ticket Contd... 2/-

Collectors and their non-reengagement on the ratio of various judgments of this Tribunal as well as of the Hon'ble Supreme Court.

2. The applicants claim that they were engaged as Volunteer Ticket Collectors in pursuance of Railway Board's letters A4, Vide Railway Boards letter No. E(NG)11/77/RC/80 dated 21.4.1982 volunteer/mobile booking clerks could be considered for absorption against regular vacancies, provided they possessed the minimum qualifications for direct recruits and had put in a minimum of three years of service in that capacity. The services of applicants were however, disengaged after a few days. They claim that during their period of engagement, their presence was marked in the Attendance Register and an honorarium of Rs.8/- (Eight) per day had been paid and they were allowed to use the railway insignia as part of their official attire. Later certain other Volunteer Ticket Collectors who also had been appointed in pursuance of A4 letter were also disengaged which led them to file an Original Application before the Calcutta Bench of this Tribunal. In that Original Application, i.e. Samir Kumar Mukerjee and Others (ATR 1986(2) Page-?), it was held that the applicants were to be treated as Casual Labourers and as temporary employees if they worked continuously for more than 180 days. Similar decisions were also given in Sagar Biswas & Others Vs. Union of India & Others (ATR 1986(2) Page-686) and OAs No. 214/86 and 215/86 (Annexure A1). Special Leave Petitions filed in the above cases were also dismissed by an order of the Hon'ble Supreme Court dated 04.05.1987. The applicants claim that in

Dh

JK

terms of these Judgments and as also in the light of the case of Ms. Neera Mehta & Others Vs. Union of India & Others (ATR 1989(1) 280) and Ms. Usha Kumari Anand & Others Vs. Union of India (ATR 1989(2) Page-37), the applicants are also entitled to be reengaged and regularised after rendering the requisite qualifying service. The Railway Board had also issued instructions on 06.02.1990 that the staff who had worked prior to 17.11.1986 should be reengaged.

3. The respondents controvert the claim of the applicants and submit that the case of the present applicants is different inasmuch as they were not regularly appointed but had come to help the Railway authorities as members of the Bharat Scouts and Guides Organisation. The payments made to them were to meet out of pocket expenses and for refreshments and could not be treated therefore as wages or even honorarium.

4. The learned counsel for applicant, Shri B.S. Mainee has drawn our attention to the orders of Supreme Court in the case of Union of India & Others Vs. Belal Ahmed & Others in a Civil Appeal No. 9262 /95. In that case also the volunteers had paid out of pocket allowances at a fixed rate of Rs.8/- per day. The Apex Court decided in line with its earlier orders in Civil Appeal No. 1015/95, Union of India Vs. Sagar Chand Biswas & Others that these volunteers will continue to work

Dw

Contd.....4/-

5

On payment of out of pocket allowance at the rate of Rs.8/- per day and as and when vacancies arise in Group 'D' posts, they should be considered for absorption in accordance with the inter-se seniority between the Volunteers.

5. It is pointed out by the applicants that though they were admittedly members of the Bharat Scouts and Guides Organisation, they had joined the same as wards of Railway employees and were thus in the same position as other children of railway employees who were engaged as Volunteers/Mobile Clerks in pursuance of Railway Board letter A4. We find force in this contention since the nature of engagement in both cases was deemed to be voluntary and the honorarium and the so called out of pocket expenses reimbursed were both at the same rate of Rs.8/- per day. The applicants are thus also entitled to the benefit of the various judgements culminating the order of the Supreme Court in Civil Appeal No.9262/95.

6. Accordingly, the respondents are directed to re-engage the applicants as Volunteer/Mobile Ticket Collectors/Booking Clerks and to consider them for regularisation and absorption after completion of three years service subject to their fulfilment of the minimum qualifications laid down for direct recruitment.

16

7. Original Application No.314/92 is allowed to the above extent. There shall be no order as to costs.

Dated, the 20th September, 1996.

R.K. Ahuja -
(R.K. AHOOJA)
MEMBER (A)

Hankarananay
(CHETTUR SANKARAN NAIR(J))
CHAIRMAN

/rao/