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in

with

M.A. 2131/94

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Union of India & Ors. ..Review applicants.
(By Advocate Shri H.K. Gangwani)
Versus

Shri Parmanand & Ors. ..Respondents.

ORDER(By circulation)

Shri N.V. Krishnan, Vice-Chairman(A).

O.A. 3286/92 was disposed of by our oral order dated 28.4.1994. The respondents therein have filed this application seeking a review of that order. M.A. 2131/94 has been filed to condone the delay for filing the Review Application.

2. We have seen the Review Application. We are satisfied that it can be disposed of by circulation.

3. In the view we are taking on the Review Application, M.A. for condonation of delay is allowed.

4. By our order, we directed the Review Applicants to consider/regularising the services of the applicants by subjecting them to viva-voce test as was done in Delhi Division by the Annexure A-2 memorandum and on that basis regularise the services of all those applicants who clear the test and assign them seniority taking into account the entire period of continuous officiation in service as MCCs though it be on ad hoc basis.



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are dealt with below:

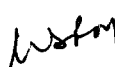
- (i) It is stated that the finding of the Tribunal that regularisation can be done not only on substantive post ^{also} but /on temporary or ad hoc post is erroneous in law. We have held that persons can be appointed on a regular ^{even} basis /on temporary posts or on a post created on an ad hoc basis. That is our considered decision and if the Review applicants have any grievance, the proper course is to take up the same in an appeal.
- (ii) The second ground is that we have directed taking into account ad hoc service for reckoning seniority. This is stated to be contrary to para 320 of Indian Railway Establishment. The Review Applicants have conveniently glossed over the earlier judgement in Om Pal Singh Vs. Union of India, 1990(3) CSJ(CAT)294 in which a similar decision was given and the review filed by the respondents therein was dismissed. Our order followed the earlier judgement in that case.
- (iii) Sub-para (A) of Para 4 is that the Tribunal has given direction that though the applicants were not appointed in accordance with the rules considering the length of their service, they should be subjected to only a

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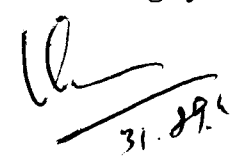
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test to judge their suitability and if found suitable, they should be regularised and treated as if they have been appointed regularly. It is unfortunate that the review applicants have stated this ground as if this was the decision of this Tribunal. This is the decision taken by the General Manager in the PNM meeting. Therefore, if there is any error in this regard, it is the General Manager himself, the Ist respondent in the O.A., who is responsible for it.

6. In the circumstance, we find no merit in the Review Application and it is accordingly dismissed. No costs.


(C.J. ROY)
MEMBER(J)

31.8.94


(N.V. KRISHNAN)
VICE CHAIRMAN(A)

31.8.94