

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

(14)

HON. SHRI R.K. AHOOJA, MEMBER(A)

O.A. NO. 467/1992

NEW DELHI, THIS 6th DAY OF MAY, 1997

SHRI SHRI NIWAS VERMA  
S/o Sh. R.K. Verma  
Mason Mstry under  
Dy. Chief Engg. (Const.)  
Mahabat Khan  
Tilak Bridge  
NEW DELHI

..APPLICANT

(By Advocate - Shri B.S. Mainee)

VERSUS

1. Union of India, through  
Through the General Manager  
Northern Railway  
Baroda House  
NEW DELHI
2. The Chief Admn. Officer (Const.)  
Northern Railway  
Kashmere Gate  
DELHI
3. The Dy. Chief Engineer (Const.)  
Northern Railway  
Tilak Bridge  
NEW DELHI

..RESPONDENTS

(By Advocate - Shri P.S. Mahendru)

ORDER

The applicant was engaged as casual labour w.e.f. 13.1.1977 and worked continuously as such till 31.5.1981 when he was promoted as Mason Mistry in the regular grade of Rs.260-400/950-1500. He also passed the trade test for the post of Mason Mistry. The respondents granted him temporary status in accordance with Railway rules vide letter dated 30.10.87 (A-3). The applicant submits that he has been continuously working as Mason Mistry w.e.f. 30.5.1981 but though 11 years have since passed, he has not been regularised. On the other hand, some of his juniors who had been promoted have been even further promoted and granted the higher scales of Rs.1200-1800 and 1320-2040.

2. The respondents in reply state that the applicant was engaged in Group D category and therefore he has to be regularised only in that category irrespective of the fact that he has been given one ad hoc promotion. Further, the applicant is working in the construction organisation which cannot by its very nature be deemed to be a permanent organisation. However, the applicant will be considered for regularisation in Group D category after screening as and when a regular post is available. As regards the juniors being promoted, the respondents state that such employees were Diploma holders in Civil Engineering which is <sup>not</sup> <sub>so</sub> with the applicant.

3. I have heard the counsel on both sides. Shri B.S. Mainee, 1d. counsel for the applicant, draws my attention to the instructions issued by Railway Board and included in para 2007(iii) of Indian Railway Estt. Manual (IREM) Vol. II, according to which casual labour engaged in work charged establishment who get promoted to semi-skilled and highly skilled categories and continue to work as casual employees for a long period can straightaway be absorbed in regular vacancies in skilled grades provided they have passed the requisite trade test to the extent of 25% of the vacancies reserved for departmental promotion from unskilled and semi-skilled categories. He also produced a copy of Northern Railway letter No.11229/96, dated 14.8.1996, in which provisions of para 2007(iii) of IREM have been reproduced for strict compliance by all concerned. He also relies on Supreme Court orders in STATE OF HARYANA & ORS. VS. PIARA SINGH & ORS. AISLJ 1992(3) 44. In para 25 thereof, concerning the issue of regularisation of ad hoc/temporary employees in government service, following observation, amongst others, has been made:-

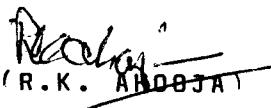
If for any reason, an ad hoc or temporary employee is continued for a fairly long spell, the authorities must consider his case of regularisation provided he is eligible and qualified according to rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the State.

4. Shri P.S. Mahendru, 1d. counsel for the respondents, fairly states that the case of the applicant would be considered in terms of para 2007(iii) of the IREM.

4. In view of the clear provision of para 2007(iii), it is obvious that the applicant is to be considered for regularisation against a regular vacancy ~~yes~~ in skilled grade as he has already passed the trade test. However, this regularisation can be done if there is a vacancy within 25% of the departmental promotion quota. According to respondents' counsel, no such vacancy is available immediately. Shri Maine, however, submits that a large number of promotions have been made against this 25% already, against which the applicant was not considered even though he was eligible to be so considered after passing the trade test.

5. In the facts and circumstances of the case, the respondents should ascertain whether there were any promotions made against the departmental promotion quota and whether the applicant could have been considered against 25% of this quota. If so, the applicant will be regularised from that date and his pay in the regular post refixed accordingly. In such a case, however, the applicant would be entitled to any arrears of pay on account of difference in the pay fixed and the pay actually drawn only w.e.f. the date of filing of this O.A., that is, 21.2.1992.

The O.A. is disposed of accordingly. No costs.

  
R.K. ADOBAT  
MEMBER (A)

laxmi