CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

New Delhi this the 21st Day of January 1997.

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**Hon'ble Shri A.V. Haridasan, Vice Chairman (J)**

**Hon'ble Shri R.K. Ahooja, Member (A)**

**O.A. No. 2422/92**

Shri Rajesh Kumar
Son of Shri Badri Nath
Ex. Mobile Booking Clerk
North Eastern Railway
Railway Station
Kasganj

**O.A.No. 1960/92**

Shri Ajay Kumar Shukla
Son of Shri C.S. Shukla
Ex-Mobile Booking Clerk
Railway Station, N.E. Railway,
Karnauj.

**O.A. No. 77/1993**

Shri Surinder Singh Rathore
Son of Shri Babu Singh Rathore
Ex. Additional Booking Clerk
Railway Station,
North Eastern Railway
Fatehgarh Railway Station.

**O.A. No. 76/1993**

Shri Rajinder Kumar Mishra
Son of Shri Durga Prasad Mishra
Ex. Volunteer/Mobile Ticket Collector
Under Station Superintendent
North Eastern Railway
Pilibhit.

**O.A. No. 465/1993**

Shri R.S. Kashyap
Son of Shri Dharam Das Kashyap
ex. Mobile Booking Clerk
Railway Station
Budayun.

**O.A. No. 1053/1992**

Shri Shiv Kumar
son of Shri Thakur Das
Ex. Additional Booking Clerk
North Eastern Railway
Puranpur.

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**O.A. No. 904/1992**

Shri Narayan Singh

Son of Shri Mohendra Singh
ex. Additional Booking Clerk
Kashipur Station
North Eastern Railway
Izatnagar Division.

**O.A.No. 78/1992**

Shri Mohd. Quasin Uddin
Son of Shri Samiuddin
ex. Additional Booking Clerk
Railway Station
Bilhaur Railway Station
North Eastern Railway.

**O.A. No. 941/1992**

Shri Varinder Singh Pal
Son of Shri Dhan Singh Pal
Ex. Additional Booking Clerk
North Eastern Railway,
Railway Station
Kashipur.

Applicants

(All the above O.As applicants are
C/o Shri B.S. Mainee, Advocate)

Versus

Union of India through:

1. The Secretary
Ministry of Railway
Railway Board
New Delhi.

2. The General Manager,
North Eastern Railway
Gorakhpur.

3. The Divisional Railway Manager,
North Eastern Railway
Izatnagar

Respondents

(By Advocate: Shri P.S. Mahendru)

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# O R D E R

**Hon'ble Shri A.V. Haridasan, Vice Chairman (J)**

All these cases involved similar facts and identical question of law and, therefore, they are being heard and disposed of by this common order. The applicants in all these cases were engaged as Volunteer Mobile Ticket Collecters/Mobile Booking Clerks and were all discharged prior to 17.11.1986. The applicant in O.A. No. 2422/92 was first engaged on 17.6.1984 and he had worked till 31.10.1984. The applicant in O.A. No. 1960/92 was first engaged on 22.5.1983 and worked upto 22.6.1983. The applicant in O.A. No. 77/93 was engaged as Mobile Booking Clerk from 1.3.1986 to 31.3.1986. The applicant in O.A. No. 465/93 was engaged as Mobile Booking Clerk from 27.5.1983 to 13.8.1983. The applicant in O.A. No. 1053/92 was engaged from 1.8.1983 to 23.12.1984 with intermittant break. The applicant in O.A.No. 76/92 was engaged as Mobile Ticket Collector from 23.3.1984 to 30.4.1984. The applicant in O.A. No. 904/92 worked as Mobile Booking Clerk from 18.5.1983 to 31.10.1984 with intermittant break. The applicant in O.A. No. 78/93 worked as Mobile Booking Clerk from 20.5.1983 to 18.9.1983 with intermittant break. Applicant in O.A. No. 941/92 was working as Mobile Booking Clerk from 18.5.1983 till 31.10.1984 with intermittant break. After they were discharged the applicants were not considered for re-engagement and regularisation. Mobile Booking Clerks who had rendered service prior to 17.11.1986 and were not re-engaged approached the Central Administrative Tribunal claiming re-engagmenet and regularisation. The Tribunal

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directed the Railway Administration to re-engage the Mobile Booking Clerks and to consider them for regularisation. The decision in Usha Kumari Anand's case was reported in ATR 1989(2) 37. This relief has followed the judgement in Miss Neera Mehta's case. The Special Leave Petition filed against Miss Neera Mehta's case was dismissed by the Supreme Court. Pursuant to the above the Railway Board issued order on 6.2.1990 to all the Railways to re-engage the Mobile Booking Clerks who had rendered service prior to 17.11.1986. The applicants who came to know about the above order of the Railway Board submitted their representatioins to the respondents requesting them to re-engage and to consider them for absorption in regular service but withoiut success. The applicants have filed this application praying that the respondents may be directed to re-engage them as Volunteer Ticket Collectors/Mobile Booking Clerks and to grant them temporary status and regularise them in accordance with the decision of the Tribunal in Usha Kumari Anand's case.

2. The respondents have filed detailed reply in all these cases contesting the applications on various grounds. They contend that the application is barred by limitation and they also contend that the decision in Usha Kumari Anand's case is not applicable to the case of the applicants.

3. We have heard the learned counsel in either side and have perused the pleadings and materials available on record. First of all we may deal with the plea of limitation raised by the respondents. Even though the

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engagement of the applicants were stopped prior to 17.11.1986 pursuant to the judgement of the Tribunal in Neera Mehta's case, the Railway Board has issued a Circular dated 6.2.1990 to all the General Managers that Mobile Booking Clerks who have rendered service prioy to 17.11.1986 and dis-engaged should be re-engaged as and when they approach them, and thereafter consider grant of temporary status and regularisation. In spite of this Circular of the Railway Board, the request of the applicants have not been considered by the respondents in the light of the above mentioned Circular of the Railway Board. In Usha Kumari Anand's case the Tribunal had given the following directions:

> "Following the decision of this Tribunal in Neera Mehta's case and Sumir 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 those applicants had been engaged as Mobile Booking Clerks before 17.11.86. 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 services were terminated, would no doubt, count for completion of three years period of service which is one of the conditions for regularisation and absorption."

Following the above judgement the Principal Bench of the Tribunal in Arvind Kumar & Ors. Vs. Union of India reported in ATJ 1996(1) 151 directed the repondents to

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re-engage the applicants within a period of three months from the date of receipt of the order and to consider their absorption within a period of three years taking into account the service rendered prior to their dis-engagement also. In the light of the Memorandum dated 21.4.1982 and 24.5.1990 mentioned in the Railway Board letter dated 6.2.1990. This decision of the Tribunal has been followed in Shri Sanjeev Kumar Vs. Secretary,Ministry of Railways and Ors. in O.A. No. 964/91 decided on 7.3.1986. The applicants in all these cases were engaged as Mobile Booking Clerks or Volunteer Ticket Collectors and dis-engagement prior to 17.11.1986. They are in all respect similarly situated as the applicant in Usha Kumari Anand's case, Arvind Kumar and Sanjeev Kumar (Supra). Therefore, we do not find any reason to deviate from the views taken in all the said cases. The plea of limitation has to be overruled.

4. In the result the applications are disposed of with a direction to the respondents to re-engage the applicants in these cases as Mobile Booking Clerks and Volunteer Ticket Collectors within a period of three months from the date of receipt of a copy of this order. The case of the applicants for grant of temporary status, absorption etc. shall be considered by the respondents in accordance with the rulings, rules and instructions in that regard. The period of service, rendered by each of the applicants prior to their dis-engagement shall also be

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taken into account for the purpose of computing the required length of service while considering them for absorption.

There is no order as to costs.

(R.K. Ahooja)
Member (A)

(A.V. Haridasan)
Vice Chairman (J)

Attested
Advocate
Court

*Mittal*