

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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O.A. No 1353/93

New Delhi, dated the 16th March, 1994

Hon'ble Mr. N.V.Krishnan, Vice Chairman(A)
Hon'ble Mr. B.S. Hegde, Member(J)

Shri Braham Singh
No. 1F, Jiya Sarai, IIT Hauz Khas
New Delhi

... Applicant

(By Advocate Sh.B.S. Jain)

V/s

1. UOI through Chairman Railway Board
Rail Bhawan, New Delhi.
2. Genl. Manager, Northern Rly.,
Baroda House, K.G. Marg,
New Delhi
3. Divisional Regional Manager,
State Entry Road,
New Delhi
4. Senior Divisional (Electrical)
Engineer, E.M.U. Kar Shed Ghazi abad.

... Respondents.

ORDER(ORAL)

(Hon'ble Sh. N.V.Krishnan, Vice Chairman(A))

We have heard the learned counsel for the applicant. The following prayers are made in the O.A.

- " i. direct the respondents to consider and regularise the applicant as motor mechanic cum motor Driver
ii. direct the respondents to count the ad-hoc service of the applicant as Motor Driver for seniority with all consequential benefits

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When the matter came up on 8.7.1993 for an interim
order it was recorded as follows:-

" The case of the petitioner for interim relief is that he has worked as Motor Vehicle Driver right up to 1993 when he was reverted as Cleaner. In the meanwhile, the respondents advertised the post of Motor Vehicle Driver. The petitioner applied for the post vide his application dated 11.6.93 but he has not been called for the test. He has prayed that the respondents be directed to also call him for the test of Motor Driver. According to the learned counsel for the petitioner the eligibility condition is that a person should have worked as a Khallasi for two years. From the notice calling applications we find that the post is that of Motor Mechanic cum Motor Driver and not of Motor Driver. The experience of the applicant has been as a motor driver. However, in view of the eligibility condition the learned counsel submits that the applicant should have also been called for the test and if found suitable given an opportunity. In view of the above circumstances, we direct the respondents to call the petitioner for the test. They may, however, not declare the result. The case be listed on 24.8.93."

Subsequently on 24.8.93 it was found that even before the interim order was issued, interview was already held and accordingly interim relief had become infructuous.

2. The applicant's contention is that in view of his service as Khallasi-Motor Driver on adhoc basis from March, 1989 and grant of temporary status to him, he should be regularised as Motor Driver cum Staff Car Driver. In MA 630/94 he has submitted a document with MA which is a notice dated 28.12.1993 of the 4th respondent intimating that the applicant has been found suitable and is placed on the provisional panel for regularisation for the post mentioned against him which is a Truck Cleaner.

3. The applicant contends that in accordance with Rule 2007 of the Indian Railway Establishment Manual (MA-1 to MA 631/94) " Casual labour engaged in work charged establishment of certain departments who get promoted to semi-skilled, skilled and highly skilled categories due to non-availability of regular departmental candidates and continue to work as casual employees for a long period, can straightway 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 the unskilled and semi-skilled categories. These orders also apply to casual labour who are recruited directly in the skilled categories. He claims the benefits of this rule for being considered for the post of Motor Driver cum Staff Car Driver Class-III for which notice has been issued at Ann.2, in regard to which the earlier interim order was passed which was found to be infructuous.

4. We have heard the counsel and perused the records. The applicant was engaged as a casual labour khallasi. (Ann.A.6) He was asked to work as a motor driver also. However, to secure permanancy he applied for the post of truck cleaner in the grade of Rs 750-940, which is less than the khallasi pay scale. He has since been

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placed in the panel for regularisation as a Truck
Cleaner vide Ann.MA 2 notice dated 28.12.1993 filed
with the O.A. Therefore, he can have no grievance
regarding regularisation, because he had opted for
the lower post of truck cleaner to get the benefit
of regularisation.

5. He has no right to respond to the Ann.A.2
notice, because that notice allows application,
by regular khallasi helpers or khallasis only and
not by casual labour khallasi like the applicant.

6. In so far as the claim based on Rule 2007
(para 3 supra) is concerned we notice that the
applicant has not produced any Recruitment Rules
in respect of the post of Motor Mechanic Cum Staff
Car Driver, Class-III showing that this post is
to be filled by promotion, even in which case alone
Rule 2007 of the I.R.E.M. would apply.

7. In the circumstances, no *prima facie* case is
made. Hence OA is dismissed at the admission stage.

B.S. Hegde
(B.S. Hegde)

Member (J)

N.V. Krishnan
(N.V. Krishnan)

Vice Chairman (A)

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