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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 1014/93

New Delhi, this the 1st day of January 99.

Hon'ble Mr. N. Sahu, Member (Admmv)
Hon'ble Dr. A. Vedavalli, Member (J)

1. Mrs. Phool Badan Tiwari,
W/o Shri P.N. Tiwari,
R/o Railway Quarter No. 363/A,
Punjab Line,
Ghaziabad.
2. Smt. Kamala Ahuja,
W/o Sh. L.L. Ahuja,
R/o C-19/A, Railway Colony,
L.P.N.R. Delhi.
3. Smt. Sumittar Kaur,
W/o Sh. Khem Singh,
R/o 35/5, Railway Colony,
Kishan Ganj,
Delhi.
4. Smt. Gopi Devi,
W/o Sh. Bhim Singh,
R/o 46/A-8, Chota Mor Sarai,
Railway Colony,
Delhi-110006.
5. Smt. Kamla Kumari,
W/o Shri Vashanav Das,
R/o E-16, Vijay Nagar,
Near Kingsway Camp, Delhi.
6. Smt. Harbhajan Malia,
W/o Sh. S.G.S. Malia,
R/o 9/E, Central Place,
Bangali Market,
New Delhi.
7. Smt. Tulsi Rani,
W/o Sh. S.K. Oberoi,
R/o Gali No.8, H.No.1992,
Chuna Mandi, Pahar Ganj,
Delhi.
8. Smt. Bimla Grover,
W/o Shri G.N. Grover,
Railway Gate No.3,
Quarter No.E-8, Sewa Nagar,
Delhi.
9. Smt. Shashi Kanta,
R/o Handicraft Centre (TKD),
Tilak Bridge, New Delhi.

...Applicants

(By Advocate Shri Anis Suhrawardy)

-Versus-



1. Union of India through its General Manager, Northern Railway, Baroda House, New Delhi.
2. Senior Divisional Personnel Officer, D.R.M. Office, Northern Railway, Chelmsford Road, New Delhi.
3. Regional Railway Manager, Northern Railway, Chelmsford Road, New Delhi. ... Respondents

(By Advocate Shri P.S. Mahendru)

ORDER

By Hon'ble Dr. A. Vedavalli, Member (J):

Nine applicants in this OA are working as Lady Supervisors in the Handicraft Centres being run at various places^{by} under the control of Divisional Railway Manager, Northern Railway (Respondent No.3). They are aggrieved by the action of the respondents in not treating them as Railway servants. However, they have not impugned any particular order in this regard.

2. The applicants have sought the following reliefs in this OA:

i) Direct regularisation of the services of the applicants with all consequential and attendant benefits.

ii) Declare the applicants as Railway Servants.



iii) Command the respondents to pay to the applicants regular scale of with all allowances.

iv) Quash and set aside all other such policy/policies which may come in the way of the applicants in seeking regularisation of their services by issuance of an appropriate nature of certiorari.

v) And pass such and other order/orders as this Hon'ble Tribunal may deem fit and proper in the light of the facts and circumstances of the case.

3. We have heard the learned counsel for both the parties. We have gone through the pleadings and the material papers and documents placed on record. Matter has been considered carefully.

4. It is submitted by the learned counsel for the applicants that the respondents (Northern Railway) issued a notice inviting applications for recruitment to the posts of Lady Supervisor at the Handicrafts Centres and the applicants were appointed to the said post in various places after due selection in an open competition. He further submitted that the said Centres are run in the buildings of the Railways and the Lady Supervisors are paid a salary of Rs.300/- per month which is paid

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from the staff benefit fund. They are also paid certain amount towards charges for stitching uniforms etc. from cut cloth supplied by Railways to those Centres out of the Railway revenue. He contended that the Handicrafts Centres are under the administrative and financial control of the Northern Railway and by their very nature they are part of the Railways. Since several categories of persons engaged by the Railways such as casual labourers, mobile booking clerks and canteen workers etc. under the relevant schemes due to the concerned decisions of the Apex Court, including the case of Inder Pal Yadav vs. Union of India (1985 (2) SLR 248 and Catering Cleanres of Southern Railway vs. Union of India 1987 (2) SCR 164 have been treated as regular Railway servants, there is no reason why the applicants should be denied similar treatment. He argued that the impugned action of the respondents in not treating the applicants as regular employees or servant of the Railway is illegal, arbitrary and violative of Article 14, 16(1) readwith Article 39 (a) 41, and 43 of the Constitution. Such an action according to him, therefore, deserves to be quashed and the applicants should be given the aforesaid reliefs sought in this OA.

5. The OA is contested by the respondents who have filed their counter-reply to which a rejoinder has been filed by the applicants. The respondents have also filed an affidavit dated 26.9.95 in pursuance of this Tribunal's order dated

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27.9.94 together with a copy of the instructions (Annexure X) for procedure for issue of basic cloth and remuneration etc. to the Handicraft Centres.

6. The learned counsel for the respondents submitted that the handicraft centres are not under the administrative and financial control of the Divisional Railway Manager, Northern Railway, New Delhi as alleged by the applicants. Those centres are managed and controlled by nominated Handicrafts Centres Committee. The constitution of the said Committee, he submits, is as follows:

"Chairman: D.P.O. or A.P.O. in case of the Handicrafts Centres located at the Divisional Headquarters, A.E.N. or other Sr. Subordinate Incharge in case of large stations.

Secretary: Welfare Inspector and at station other than the Divisional Headquarters a senior Subordinate as may be nominated by the Divl. Railway Manager/CWM/Dy.CME.

Members: (i) One from the Divisional workshop Sub-Committee staff Benefit Fund, if available at the station where the Centre has been opened and if not available, the Divisional Staff Benefit Fund Committee may nominate a local employee on the committee.

(ii) Two lady members to be nominated from amongst the wives of the Railway Employees.

(iii) One local member from the Northern Railway Men's Union and one from the Uttar Railway Mazdoor Union may be nominated".

7. Re the concerned notice calling for applications to the posts concerned and selection etc. it was stated by the respondents that the applicants have not filed the documents nor have they given any particulars thereof and hence the averments

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of the applicants cannot be replied. However, it was submitted that the Lady Supervisors are selected from amongst the working ladies in the Handicraft Centres to maintain accounts and records etc. without any interference of Railway staff members until and unless their assistance is required. Their selection is conducted by the Handicraft Centres Committee. These ladies are the wives of Railway employees who utilise their spare time and earn remuneration which helps them in supplementing their family income.

8. It was further submitted by the respondents that the Handicrafts Centre Committees have been started under the Staff Benefit Scheme for the sake of women members of the Railway employees particularly the Class IV where opportunities are offered for learning, sewing, knitting, embroidery etc. and the funds for these centres are provided from the Staff Benefit Fund Only. The said fund is managed by a Committee known as the "The Central Committee Northern Railway Staff Benefit Fund". The Central Committee, comprises of the C.P.O. as Chariman, three nominated mebers and six representatives of the staff recognised unions. One of the nominated members is disignated as Secretary.

9. It is also stated by the respondents that the cut garments are provided to the lady workers by the Railways to enable the Handicrafts Centres to impart training to the lady members of the Railway employees families and the Lady Supervisors are paid a commission at 3% on the total stitching

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work done by the lady workers of the Centre. The respondents have filed alongwith their counter the instructions for Women Handicrafts Centres and the rules regarding remuneration to be paid to Lady Supervisors who have to supervise the stitching works by the workers and maintain accounts books etc. in respect of the garments received and distributed to the workers and also returned to the store depot after stitching.

10. Learned counsel for the respondents contended that in view of the position as stated supra the applicants who are Lady Supervisors are neither selected nor appointed by the Railway Administration nor are they paid from Railway revenue. Hence they cannot be treated as Railway servants and given the benefits as admissible to such servants. They cannot be equated with the casual labourers/casual employees either who are paid out of Railway revenue. Moreover, it was submitted that the Fabrication department under the control of Northern Railway is a separate and different entity and the Handicrafts Centres are neither performing the same functions nor have any connection with the same. He argued that there is, therefore, no question of any hostile discrimination involved in this matter and the OA deserves to be rejected as being devoid of any merit.

11. Learned counsel for the respondents during the course of his arguments invited our attention to an order of this Tribunal dated 9.7.98



in an earlier OA-3099/91 filed by Mrs. Phool Badan Tiwari against Union of India and Others, who is applicant NO.1 in the present OA and he produced a copy of the said order for our perusal. He submitted that the said order fully covers the present case and the present OA, therefore, should also be dismissed in the light of the earlier order of this Tribunal.

12. We have given our anxious consideration to the matter. It is noticed that the said earlier OA is filed by applicant No.1 in the prsent OA who is aggrieved by a notice dated 17.12.91 by which the President of the Mahila Sewing Centre, Ghaziabad has invited applications for filling up the post of Lady Supervisor in the Handicrafts Centre, Ghaziabad. She submitted that as she has already been selected and appointed to the said post in pursuance of selection held on 20.7.89 it should not be filled up through fresh selection. She has impleaded Union of India, through Secretary, Ministry of Railways and the General Manager, Northern Railway etc. as party respondents in that case.

13. The respondents in the said case had ~~contested~~ that OA.

14. The crucial questions in the said OA were whether the applicant is a Railway servant or not and whether Handicrafts Centre is a department of Railway.



15. It has been held by the Tribunal in the aforesaid OA, inter alia, thus:-

"6. We have considered the rival contentions mad by the parties and are convinced that the applicant does not hold a post under the Railway nor is the Handicraft Centre a department of Railways. The mere fact that the bills are approved by the concerned Assistant Engineer or that the Chief Personnel Officer also has a role in running the administration of the Handicraft Centres would not make these Centres a department of Railways.

7. That apart, this Bench of the Tribunal also has no jurisdiction in the matter, as the applicant does not reside within the local limits of the territorial jurisdiction of this Tribunal. In the title of the OA the applicant has given her place of residence to be Ghaziabad which is situated in the State of U.P. The impugned notice has also been issued by the President of Mahila Sewing Centre, Ghaziabad and there is nothing to indicate that any action has been taken by the officers of the Railways located at New Delhi which action might have given rise to the cause of action in this OA.

8. We further notice that even though the applicant has filed a copy of an order dated 27.7.89 (Annexure A-3) finding the applicant qualified for the post of Lady Supervisor, the detailed order regarding the terms of appointment, including the salary/commission has not been filed and it is admitted by the applicant in the rejoinder that no such detailed appointment letter was issued in her favour. We also find that the letter as at Annexure A-3 has been issued by the Divisional Engineer, Northern Railway, Ghaziabad in the capacity of President of the Handicraft Centre Ghaziabad and not in his official capacity, thus supporting the contention of the respondents that the Handicraft Centre is not a department of Railways.

9. In view of the above, we find not merit in the OA which is accordingly dismissed but without any order as to costs.

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(S.P.Biswas)

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(T.N. Bhat)"

16. The aforesaid two crucial questions which have been raised in the present OA also have already been considered and decided by a coordinate Bench of this Tribunal. Nothing has been shown to us by either party indicating that the aforesaid order dated 9.7.98 (supra) has not become final. In the circumstances we are bound by the said order.

17. In view of the relevant findings given in the aforesaid order regarding the two crucial questions (supra) which are applicable to the facts in the present case also, the O.A. is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

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Member (Admnv)

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