

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.676 of 1996

Thursday, this the 21st day of August, 2003

Hon'ble Mr. Justice R.R.K.Trivedi, V.C.
Hon'ble Maj. Gen. K.K.Srivastava, A.M.

Abbika Prasad,
Son of Shri Kudha Din,
Teacher Open Air Primary School,
Hamirpur Road, Railway Station,
Resident of Village Pandri Ganga Din.
Post Office, Bari Pal, District- Kanpur Dehat.

..... Applicant.

(By Advocate : Shri S. Mandhyan)

Versus

1. Union of India,
through Ministry of Railways,
Rail Bhawan, New Delhi.
2. Divisional Rail Manager,
Central Railway, Jhansi.
3. Senior Divisional Commercial
Superintendent, Central Railway,
Jhansi.
4. Senior Divisional Personnel Officer,
Central Railway, Jhansi.

..... Respondents.

(By Advocate : Km. Sadhna Srivastava)

ORDER (ORAL)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C. :

By this O.A. under Section 19 of the A.T. Act, 1985, the applicant has prayed for a direction to the respondents to grant temporary status to the applicant from the date he completed 120 days of continuous service with all consequential benefits. It has also been prayed that the respondents may be directed to regularise the services of the applicant as Teacher.

2. The facts of the case are that the applicant was



engaged on 1.4.1993 to teach the students in Open Air primary school at railway station Hamirpur Road. The applicant was engaged on a fixed salary of Rs.500/- per month. It is not disputed that the applicant is serving in open Air primary school since then.

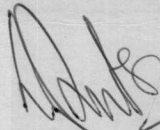
3. Resisting the claim of the applicant, respondents have filed their Counter reply. Ms. Sadhna Srivastava, counsel for the respondents has raised a preliminary objection that the applicant is not a railway employee and this O.A. is not legally maintainable before this Tribunal. It is submitted by the respondents that the Employees Benefit Fund Scheme has been initiated for looking after the welfare of the railway employees in various ways. One of the object of this scheme was to provide facility of teaching to children of railway employees serving in remote railway station where the facility of education was not available within 1.6 Km area. Ms. Sadhna Srivastava submitted that this welfare scheme is managed by the contributions made by the railway employees. She has also placed before us a copy of the Scheme, which is annexed as Annexure SA-1 to the Supplementary affidavit. In para 3 whereof, it is provided as to how the benefit fund shall be raised. It has been submitted that the applicant was not appointed under any rule framed by the railways. It is submitted that in the circumstances, applicant cannot be termed as railway employee. Counsel for the respondents has placed reliance on the judgment of Hon'ble Supreme Court in the case of phool Badan Tiwari and others vs. Union of India & others (2003 (3) ESC SC 293

4. We have carefully considered the submissions made by the counsel for the parties. In the case before the Hon'ble Supreme Court the employees were working as supervisors in Handicraft Centres. They were selected and appointed by the railway authorities. The appellants

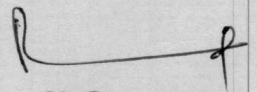


challenged the notice dated 17.12.1991 by which the president of Mahila Sewing Centre, Ghaziabad had invited the applications for filling up the post of Supervisor. The engagement of these supervisors was not made under any rules. It was also a Handicraft Centre run by females of the railway employees under the Staff Benefit Fund Scheme and they were being paid the ^{fixed} salary from the Staff Benefit Fund. In the present case, the judgment of Hon'ble Supreme Court is squarely applicable. The applicant cannot be termed as railway servant as the appointment, payment of salary are all under the Staff Benefit Fund Scheme.

5. For the reasons stated above, the O.A. is dismissed as not maintainable. NO costs.



Member (A)



V.C.

GIRISH/-