

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

(20)

Original Application No. 1269 of 1997

Allahabad this the 10th day of May, 2004

Hon'ble Mr. Justice S.R. Singh, Vice Chairman
Hon'ble Mr. D.R. Tiwari, Member (A)

Pooran Lal, aged about 42 years, Son of Shri Dhani Ram,
Resident of Laxmanpura, Gwalior.

Applicant

By Advocate Shri R.K. Nigam

Versus

1. Union of India through General Manager, Central Railway, Mumbai CST.
2. Divisional Railway Manager, Central Railway, Jhansi.
3. Dy.Chief Signal and Telecommunication Engineer, (Construction), D.R.M.'s Office, Building, Central Railway, Jhansi.

Respondents

By Advocate Shri G.P. Agarwal

O R D E R (Oral)

By Hon'ble Mr. Justice S.R. Singh, V.C.

The applicant who was initially engaged as casual Khalasi-a group 'D' post, has been regularised on the post of Khalasi vide order dated 31.03.1997(annexure A-1) to the O.A. By means of this O.A., applicant has prayed for issuance of direction to the respondents to modify the said letter of appointment to the extent that applicant be absorbed as Driver 'C'/'B' grade in the pay scale of Rs.950-1500/ 1200-1800(RPS) giving all the consequential benefits in ^{Division} the Construction department according to his physical working

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against the vacancies already existing in the department. The applicant has also prayed for issuance of direction to respondents to restore him as Vehicle Driver Grade in the pay scale of Rs.1200-1800(RPS).

2. In the O.A., it has been alleged that the applicant was appointed as Daily Wage Driver in the ~~Construction Department~~ ^{Division} of Signal and Telecommunication Branch under the third respondent at Jhansi on 16.09.1987 in the pay scale of Rs.950-1500(RPS) keeping in view his past experience of casual labour in the same department. It is further alleged in the O.A. that the applicant was put to rigid standard of test which he duly qualified and thereafter he also passed the necessary prescribed medical test, and was given full fledged pay scale in Class III cadre of Rs.950-1500(RPS) with effect from 16.09.1988. It is further claimed that applicant was subsequently absorbed and promoted after due process of selection and trade tested as 'B' grade Driver in the pay scale of Rs.1200-1800(RPS) under the Chief Telecommunication Inspector (Construction), Central Railway, Jhansi w.e.f. 04.06.1992.

3. The case of the respondents on the other hand is that while working in the Construction division, applicant was, no doubt, given promotion from T/S Driver 'C' grade to T/S Driver 'B' grade vide order dated 04.06.92 but it has been submitted by Shri G.P.Agarwal, counsel for the respondents, that the services rendered by applicant in Construction Organisation will not automatically entitle^d him to be regularised as a Driver in the open line. It has been further submitted that for

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regularisation on the post of Driver, tests were held and the applicant alongwith other candidates appeared in the trade test pursuant to notification dated 17.05.90. By order dated 06.05.1992, 7 persons were appointed as Jeep Driver excluding the applicant in the pay scale of Rs950-1500 but the entire exercise was cancelled by the order dated 12.05.1992. It may pertinently be mentioned that on account of Railway Board letter no.E(NG)II/96/CL/61 dated 03.09.96 all casual labours who were in the railway roll, were to be regularised, therefore, vide letter no. P/328/8/4/LS dated 30.06.1992 in the grade of Rs.950-1500 casual labours were called under 12% quota for screening with a view to regularise their services in Group 'C'. The applicant also appeared in the said screening but he was not found suitable, hence he could not be regularised in Group 'C'. It is stated in the counter affidavit that since the applicant was not regularised in Group 'C', he has been regularised in Group 'D' vide impugned order. Learned counsel for the respondents has also placed reliance on Hon'ble Supreme Court's decision in Writ Petition No.548 of 2000 Inder Pal Yadav & Ors. etc,etc. Vs. Union of India & Ors.etc. etc. (decided on 13.01.03) wherein it has been held that provisional local promotion in the projects cannot be taken as having vested in them a right either to continue in the project or to resist reversion back to the cadre, or to enjoy a higher promotion merely on the basis of locally provisional promotion granted to them in the project in which they had been employed at a particular point of time. The applicant conceded that he was working as a Driver in the Construction Organisation-^{an} ^{in the nature of a} ~~the~~ Organisation which is ^a temporary project, therefore, question of regularisation of the applicant on the post of Driver in the Construction Organisation does not arise. (22)

(23)

4. Learned counsel for the applicant has, however, placed reliance on the decision dated 14.01.1992 passed by this Tribunal in O.A. No. 725/1998 Har Singh and Others Vs. Union of India and Others. The applicants in that case had been working since long and according ^{-by} _{to} Tribunal directed the respondents therein to consider them for regularisation in accordance with rules and to see that they would be regularised at their turn without any delay.

5. As pointed out herein above, applicant was considered for regularisation on the post of Driver in the Open Line but he was not found suitable and pursuant to decision of Hon'ble Supreme Court ~~she~~ was regularised on the post of Khalasi in the Open Line. In the circumstances, we find no merit in the O.A., which is dismissed accordingly. No order as to costs.

D. S. Deo
Member (A)

P.S. D
Vice Chairman

/M. M. /