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Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 176 of 1997

alongwith

Original Application No. 161 of 1997

Original Application No. 725 of 1998

Allahabad this the 22nd day of February, 2000

Hon'ble Mr. S.K.I. Naqvi, Member (J)
Hon'ble Mr. M.P. Singh, Member (A)

O.A.No. 176 of 1997

Smt. Madhulika Sharma, Wife of Sri N.K. Sharma,
resident of 341-C, New Railway Colony, Tundla,
District Ferozabad.

Applicant

By Advocate Shri A.S. Diwakar

Versus

1. Union of India through Chairman, Railway Board,
New Delhi.
2. General Manager(F), Northern Railway, Bearoda
House, New Delhi.
3. Chairman, Railway Recruitment Board, Allahabad.
4. Divisional Railway Manager, Northern Railway,
Allahabad.

Respondents

By Advocate Shri A.K. Gaur

(34)

:: 2 ::

O.A.No. 161 of 1997

1. Yasmeen Mehandi, daughter of Syed Ali Mehandi, resident of 53 Dariyaganj, Allahabad.
2. Smt. Mahduri Mishra, Wife of Vinod Chand Mishra, resident of 111 Tagore Town, Allahabad.

Applicants.

By Advocate Shri Shyamal Narain

Versus

1. Union of India through Chairman, Railway Board, New Delhi.
2. General Manager(P), Northern Railway, Baroda House, New Delhi.
3. Chairman, Railway Recruitment Board, Allahabad.

Respondents.

By Advocate Shri A.K. Gaur

O.A.NO. 725 of 1998

Km. Sadhana Dubey D/o Late Ramdeen Dubey, R/o 604-A, Rest Camp Colony, Tundla, Distt. Firozabad.

Applicant

By Advocate Shri V.K. Barman

Versus

1. Union of India through Chief Personnel Officer, Northern Railway, Baroda House, New Delhi.
2. Chief Personnel Officer, Northern Railway, Baroda House, New Delhi.
3. D.R.M., Northern Railway, Allahabad.
4. Smt. Madhulika Sharma, RMP School, Tundla.

See next

.... pg. 3/-

25

:: 3 ::

5. Km.Yasmin Mehndi, C/o M.R. Inter College, Tundla.
6. Smt.Madhuri Mishra C/o Dhobhi Ghat Primary School, Tundla.
7. Smt.Zahira Bano Rizvi, Working at Tundla but transferred to Ambala Divn.

Respondents

By Advocate Shri A.K. Gaur(for official)
Shri Shyamal Narain(private)

O R D E R

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

All these cases are so inter connected, that we find it not only convenient but rather necessary to dispose of the same through this order, as the order in one case may directly effect the relief sought in the other cases.

2. To draw the frame of the cases, it is to be mentioned that in O.A.No.161 of 1997 Km.Yasmin Mehndi-applicant no.1 and Smt.Madhuri Mishra-applicant no. 2 have sought for relief for direction to the respondents to consider their cases for regularisation. In O.A.No. 176/97, Smt.Madhulika Sharma has also sought for direction to consider her services for regularisation. In O.A.No. 725/98, Km.Sadhna Dubey has come up seeking the direction to the respondents to appoint her to work as casual teacher and not to permit opposite parties no. 4, 5, 6, and 7 to participate in the regularisation/selection to be held on 18.7.1998 and 31.7.1998. In

See note

.... pg.4/-

:: 4 ::

this O.A., Km.Sadhna Dubey has arrayed Smt.Madhulika Sharma-as respondent no.4, who is applicant in O.A.No. 176 of 1997. Km.Yasmeen Mehandi as respondent no.5 who is applicant no.1 in O.A.No.161 of 1997 and Smt.Madhuri Mishra as respondent no.6, who is applicant no.2 in O.A.No. 161/97. She has also arrayed Smt.Zahira Bano Rizvi as respondent no.7.

3. Km. Yasmeen Mehandi has narrated her case with the mention that she was appointed as substitute teacher on 31.7.1995 and thereby she has become entitled to get temporary status for having put in more than 18 months service. Smt.Madhuri Mishra has mentioned her service record as having been appointed as substitute teacher on 06.9.95 and has also become entitled to temporary status. Smt. Madhulika Sharma has mentioned 21.9.95 as date of her appointment as substitute teacher and asserted that she has gained temporary status for having put in requisite period of service.

4. Perusal of the record shows that Km.Yasmeen Mehandi, Smt. Madhuri Mishra and Smt.Madhulika Sharma were appointed as substitute Assistant Teacher and the terms of their appointment letter specifically mentioned the condition that they will have no claim for regularisation of their substitute service unless they are empanelled by Railway Recruitment Board. Their substitute service will ~~techn~~automatically stand terminated on expiry of 6 months or till a regular empanelled candidate becomes available. Neither any notice nor any pay in lieu thereof, will be given to them for termination of their substitute services.

(37)

:: 5 ::

5. Inspite of above terms and conditions of their appointment, the applicants in O.A.No.161 of 1997 and O.A.No.176 of 1997 have put in their claim for getting their services regularised and have mentioned instance of one Anju Srivastava whose services were regularised under the same conditions. It has also come from the pleadings of the applicant in all the 3 matters that the posts which are being held by Km.Yasmeen Mehandi, Smt.Madhuri Mishra and Smt.Madhulika Sharma ^{were} ~~was~~ advertised to empanel from open market and they were advised to appear in that selection test in which all the 3 submitted their applications but Km.Yasmeen Mehandi could not appear in the test as the call letter received by her was for the post of A.S.M. and not that of Assistant Teacher. The application of Smt. Madhuri Mishra was rejected on the ground of her being over age and Smt. Madhulika Sharma appeared in the test but could not qualified. In O.A.No. 725 of 1998, Km.Sadhna Dubey has come up with a case that the respondents in O.A.No.725 of 1998, be not regularised as they could not qualify the test from being empanelled and she be appointed for having better educational qualifications.

6. The respondents have filed their counter-
reply in O.A.No.161 of 1997 and O.A.No.176 of 1997. In O.A.No.161 of 1997, the respondent no.3-the Chairman of Railway Recruitment Board has filed a separate counter-reply with the mention that the wrong call letter was sent to Km.Yasmeen Mehandi because she ~~did~~

See mag pg.6/-

(28)

:: 6 ::

not mention the category of post in her application form and the same was put in wrong bundle and, therefore, this mistake was because of her own submitting incomplete application form. The respondents no.1 and 2 in O.A.No.161/97 and respondents no.1, 2, 3 and 4 in O.A.No.176/97 have filed their counter-reply almost on the similar grounds that the applicants in these cases were appointed as Substitute Teachers against the leave vacancy or other exigency and they have no claim to get their services regularised, as such, particularly as against the facts that they could not qualify for the selection test held by Railway Recruitment Board empanelling the candidates for appointment against these posts.

7. Heard, the learned counsel for the rival contesting parties and perused the record.

8. First of all we take up the case of Km. Sadhna Dubey in O.A.No.725 of 1998 in which she has put her claim for appointment on the ground of being more qualified than the respondents in that O.A. and, therefore, she claims herself to be a better candidate. She has also sought relief against the process through which the services of respondents in her case(O.A.No. 725 of 1998) are being considered for regularisation. The position of Km.Sadhna Dubey cannot be compared with other substitute teachers who have been arrayed as respondents no.4 to 7 in her O.A. because those substitute teachers have already gained temporary status in the service and also as against the fact that this Sadhna Dubey also appeared in the selection test but could not

See next....pg7/-

:: 7 ::

qualify. Therefore, we do not find any good reason to issue directions to appoint her as she has prayed for.

9. So far as the cases of Km.Yasmeen Mehandi, Smt.Madhuri Mishra and Smt.Madhulika Sharma are concerned, they cannot put their claim for regularisation of service as a matter of right because none of these 3 applicants could qualify the test for being empanelled to the post of Assistant Teacher and as per terms ~~and~~ of their service, they are not entitled to put in claim for regularisation of their services ^{are to} and their services ~~will~~ stand terminated as ~~as~~ soon as regular empanelled incumbent joins the post. These applicants have referred the instance of one Anju Srivastava, whose services were regularised under similar circumstances and in support of their contentions, annexures A-5 and A-6 have been filed in O.A.No.161 of 1997 and annexures-A-4 and A-5 have been filed in O.A.No. 176 of 1997. Perusal of these referred annexures show that it was only one time exception but at the same time it indicates that there is possibility of such exception under the applicable rules and in this regard annexure A-3 in O.A.No.725 of 1998 is an important document to be taken into consideration. According~~g~~ to which, the respondents have taken decision to go through the process of regularisation of services of 8 teachers in which Smt. Madhuri Mishra, Km.Yasmeen Mehandi and Smt.Madhulika Shamra ~~h~~ find their names at serial no.2, 3 and 4 respectively and we do not

See page

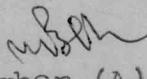
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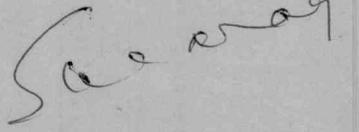
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find any good reason to come in the way of that process by passing any order to restrain the respondents, as prayed in O.A.No.725 of 1998.

10. With the above position in view, we conclude with the observation that since the respondents have already taken decision to process the regularisation of serviees of Substitute Teachers including the applicants in O.A.No.161 of 1997 and O.A.No.176 of 1997 namely Km.Yasmeen Mehandi, Smt.Madhuri Mishra and Smt.Madhulika Sharma, as evident from annexures A-3 dated 15.6.1998 in O.A.No.725 of 1998. These applicants shall be allowed to continue in the services with all the benefits as they are presently getting till the decision in respect of regularisation of their services is finally taken and was passed in that regard by the respondents.

11. Under the above circumstances, the O.A.No. 725 of 1998 is dismissed and O.A.No.161/97 and O.A.No. 176/97 ~~are~~ disposed of with the above observations. There will be no order as to costs.


Member (A)


Member (J)

/M.M./