

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

Original Application No.876 of 1998

Allahabad, this the 3<sup>rd</sup> day of February, 2004

Hon'ble Mrs. Meera Chhibber, J.M.

1. Adarsh Kumar Srivastava,  
Typist under Deputy Chief  
Electric Engineer (Cons),  
North Eastern Railway,  
Gorakhpur.
2. Ram Briksh Gupta,  
Chaser Under Deputy Chief  
Electric Engineer (Cons.)  
North Eastern Railway,  
Gorakhpur.
3. Arun Kumar Singh, C  
Chaser, Under Deputy Chief  
Electric Engineer (Cons)  
North Eastern Railway,  
Gorakhpur.
4. Badri vishal Mishra,  
Store Issuer,  
Under Deputy Chief Engineer (Cons),  
North Eastern Railway, Lucknow.
5. Iftikher Ahmad,  
Store Issuer,  
Under Dy. Chief Engineer (Cons).  
North Eastern Railway, Lucknow.

..... Applicants.

(By Advocate : Shri Ashish Srivastava )

Versus

1. The Union of India  
through General Manager,  
North Eastern Railway,  
Gorakhpur.
2. The General Manager (P)/  
Chief Personnal Officer,  
North Eastern Railway,  
Gorakhpur.
3. The Chief Administrative Officer (Cons),  
North Eastern Railway, Gorakhpur.

..... Respondents.

(By Advocate : Shri A.K. Gaur )



O R D E R

In this O.A. grievance of applicant is that even though they had been working in Gr. 'C' post for the last number of years yet by the impugned order dated 31.12.1997 they have been regularised as Group 'D' employees. In support of their claim for being regularised in Class-3 services, they have relied on Railway Board's letter dated 09.04.1997(Pg.18) and the judgment given by Hon'ble Supreme Court in the case of RAM KUMAR & OTHERS VS. UNION OF INDIA & ORS.

2. Respondents on the other hand have opposed this O.A. and have submitted that this case is fully covered by the various decisions of Hon'ble Supreme Court as well as the ~~full~~ <sup>Division</sup> Bench decision given by this Tribunal in the case of ASLAM KHAN. They have taken a preliminary objection to the maintainability of the O.A. As ~~well~~ <sup>far</sup> as applicant No.4 and 5 are concerned, the working place of the applicants are under <sup>they have thus fulfilled their</sup> ~~they have thus fulfilled their~~ <sup>initially</sup> ~~initially~~ <sup>at Allahab</sup> jurisdiction of Lucknow Bench. On merit they have submitted that all the applicants were initially engaged as Casual Labour in Group 'D' in construction organisation purely against Emergent Labour Requirement and they acquired temporary status as Casual Labour in Group 'D'. They have specifically denied that applicants were <sup>initially</sup> ~~initially~~ appointed as Casual Labour in Class-III. They have further explained that applicants were allowed to work on ad-hoc basis on work charged post purely on temporary basis. They have also explained that names of 150 T.S. Casual Labours including those <sup>who were</sup> directly engaged in Group 'C' and those who are engaged in Group 'D' but were subsequently promoted on ad-hoc basis in Group 'C' post were sent to Railway Board in reference to letter dated 31.12.1997. Thereafter, a lot of correspondence took place and finally railway board issued letter dated 31.01.1997 for regularisation of the services of Casual Labour in Group 'D' including the applicants



in open line. Accordingly steps were taken ~~for the~~ regularisation in service of the applicants in Group 'D' by way of screening. However, applicants have been allowed to continue to work in the Construction Organisation on the same post and grade without causing any financial loss. As far as letter dated 09.04.1987 is concerned, they have clarified that ~~it~~ would not apply to the applicants as it is for those casual labourers working in Group 'C' scale whose engagement has been made against the provisions contained in para 2001 to 2007 of IREM, which does not permit engagement of casual labour in Group 'C' category other than skilled artizans. They have thus, submitted that regularisation of the applicant in Group 'D' is very much in accordance with the instructions issued by Railway Board and since applicants status and pay have been protected as held by the Full Bench Tribunal in the case of ASLAM KHAN, therefore, this case may be dismissed.

3. They have also filed M.A. No.685 of 2003 to show that in similar matter O.A. No.818 of 1998 was disposed of vide order dated 23.01.2003, therefore, at best this O.A. may also be disposed off in terms of the said order.

4. I have heard both the counsel and perused the pleadings as well.

5. Admittedly, applicants were initially engaged as Casual Labour in Construction Organisation against Group 'D' post and were later promoted against Group 'C' post on ad-hoc basis. The same controversy had arisen in number of cases wherein after discussing, the cases were decided as follows:-

In ASLAM KHAN Vs. UNION OF INDIA & ORS reported in 2001(2)ATJ 1 full bench of the Tribunal held if a person <sup>is</sup> directly engaged on Group 'C' post, which is a promotional post and he <sup>is</sup> subsequently granted



temporary status also thereon, whether he could be regularised in Group 'C' post directly, it was held 'No'. He could be regularised only in *or feeder* ~~Feeder~~ Cadre in Group 'D'. However, his pay was to be protected. In the meanwhile the same position was followed in 2002 Jan Part-I C.A.T. Ahmedabad Pg.284 in the case of Iqbal Syeed Vs. Union of India & Ors. Similarly in the case of Durbhan Singh Vs. U.O.I. & Ors. reported in A.T.J. 2002 Jan. Part-I (36) 6165 it was held by the High Court of Rajasthan as follows:-

"Railway employees who have lien in Group 'D' post and have channel of promotion available to them if promoted to Group 'C' on ad-hoc basis and continue to work there for a long time cannot claim regularisation or absorption in Group 'C' post as they have avenues of promotion in their own cadre."

Similarly in the case of Moti Lal Vs. Union of India & Ors reported in 1996(7)SCC 481 Hon'ble Supreme Court held as under:-

"So far as the question is concerned, on examining the relevant provisions of the rules as well as the administrative instructions issued by the Railway Authority we are of the considered opinion that it is not permissible to appoint a person directly as a mate and it is only a promotional post from Class IV post of gangman and keyman. These gangman and keyman can be promoted to the post of Mate in Class III subject to their suitability and efficiency being tested through trade test. It is no doubt true that these respondents under certain circumstances had been appointed directly as casual mates and they continued as such and further by virtue of their continuance they acquired temporary status but that by itself does not entitle them to be regularised as mates since that would be contrary to the rules in force. In our considered opinion the respondents did not acquire a right for regularisation as mates from mere fact of their continuance as casual mates for a considerable period."

6. Perusal of the above Judgments make it abundantly clear that even though a person is promoted to Group 'C' post on ad-hoc basis, he cannot claim regularisation in Group 'C'



post directly. At best his pay had to be protected. Regularisation could have been done only in Group 'D' post, so that they earn their promotion in due time in accordance with their seniority. As far as the case of Ram Kumar is concerned. It is seen no ~~letter~~ principle of law was laid down in the said Judgment. Hon'ble Supreme Court had only directed the respondents to consider the case of applicant in accordance with rules and instructions. Whereas in the judgment referred to above, after discussing the various instructions issued by Railway Board, it has been held by various courts that regularisation of casual labour had to be done only in Group 'D' post but if they had worked for considerable number of years on group 'C' post, their pay should be protected. In the instant case, respondents have stated categorically that even though applicants have <sup>been 12</sup> regularised as Group 'D' employees but their status and pay has been protected, which is very much in accordance with judgments as referred to above. Therefore, I do not find any good ground to interfere in the case, the same is accordingly dismissed with no order as to costs.



Member (J)

shukla/-