

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH, ALLAHABAD

Original Application No. 1180 of 1998

Allahabad, this the 3rd day of December, 2004

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri A.K.Bhatnagar - Judicial Member

Munni Lal Gour S/o Sri Shiv Murat Gaur,
R/o 881 A Railway South Coloney, Near Nayapur,
Kanpur Nagar - APPLICANT

(By Advocate - Shri B.N.Singh)

Versus

1. Union of India through Divisional Rail
Manager, Northern Railway, Allahabad
Division, Allahabad.

2. Senior Divisional Personal Officer,
Northern Railway, Allahabad Division,
Allahabad.

3. Senior Electrical Engineer (Construction),
Northern Railway, Near Railway Institute,
G.T.Read, Kanpur.

4. Section Engineer (Electric/Construction)
Northern Railway, Old Railway Station,
Kanpur Nagar - RESPONDENTS

(By Advocate - Shri A.V.Srivastava)

ORDER

By M.P.Singh, Vice Chairman -

By filing this Original Application, the
applicant has claimed the following main reliefs-

"...to regularise the service of the petitioner
on the post of Truck Driver Grade II in the scale
of pay Rs.1200-1800 and direction be issued to the
Respondents accordingly.

.....to regularise the services of the petitioner
from the date of promotion or from any other date
which the Hon'ble Tribunal may deem and proper.

.....to direct the respondents to give all benefits
admissible to the Truck Driver Grade II in the
scale of pay Rs.1200-1800/- from the date which
may deem fit and proper by Hon'ble Tribunal...."

2. The brief facts of the case as per the applicant
are that he was engaged as a Truck Driver on daily wages
with effect from 7.10.1980 and he continuously worked till
14.6.1985. He was granted temporary status and the scale
of pay of Driver. He was screened in the category of
Class-IV and declared successful. The applicant has alleged
that after screening he was confirmed on the post of

B.N.Singh

Driver Grade-III. He was also duly selected and promoted by a selection committee for the post of Driver Grade-II in the scale of pay of Rs.1200-1800 in the year 1990 and since then the applicant has been working on the post of Truck Driver in the scale of Rs.1200-1800. The contention of the applicant is that the respondents have not regularised his services on the post of Truck Driver Grade-II in the scale of pay of Rs.1200-1800. Hence he has filed this O.A. claiming the afore-mentioned reliefs.

3. The respondents in their reply have submitted that the applicant is working on the post of Truck Driver in the scale of Rs.1200-1800 purely on adhoc basis w.e.f. 20.7.1989, confined to only construction unit. According to the respondents, the applicant was granted temporary status as Khalasi in grade Rs.196-232 w.e.f.1.1.1984 and he was promoted as casual Driver in grade Rs.260-400 w.e.f. 15.8.1985. He was promoted as Truck Driver in grade Rs.1200-1800 on 20.7.1989 on purely adhoc basis confined to only construction unit. The respondents have further submitted that the Construction Unit in which the applicant is working is not competent to deal with the matter of regularisation to the post of Truck Driver and such competency in this regard lies to open line i.e. Allahabad Division. Construction Unit is purely temporary Unit/ex-cadre and is not a permanent cadre. The applicant was declared empanelled to the post of Elect.Khalasi in Electrical Department of Allahabad vide letter dated 3.5.1989. The respondents have further submitted that the posting of the applicant in Construction Division was done in exigencies of service while maintaining his lien in parent cadre in open line and he cannot claim regularisation against the post on which he was put to work in Construction Unit. In view of the above, the respondents have contended that the OA is liable to be dismissed.

4. Heard the learned counsel of both the parties.

5. The learned counsel for the applicant has stated that since the applicant has been working on the post of Truck Driver from a very long time, he is required to be regularised on the said post. According to him, he is not working in a construction unit but working in a regular establishment.

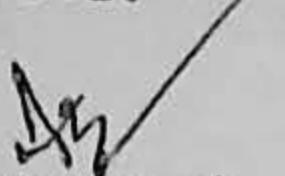
6. On the other hand, the learned counsel for the respondents has submitted that the applicant although was appointed as a Truck Driver in Construction Unit due to exigency of services, he cannot be regularised as such as the post of Truck Driver is a Group-C post in openline. As per rules and also the law laid down by the Full Bench of the Tribunal in the case of Aslam Khan Vs. Union of India and others, 2001 (2)ATJ 1, the applicant who is working temporarily in a Group-C post is not entitled to be regularised on Group-C post directly.

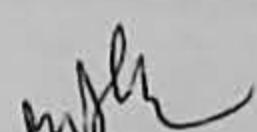
7. We have given careful consideration to the rival contentions. The question for consideration before us is whether the applicant who has been working as a Truck Driver for a long time in Construction Unit, can be regularised as such which is a Group-C post, in open line. As per the Full Bench decision in the case of Aslam Khan (supra) the persons directly engaged on Group-C post, (which is a promotional post for Class-IV employees) are not entitled to be regularised on Group-C post directly. In the present case the applicant has been regularised as Electrical Khalasi vide order dated 3.5.1989 and he has been working as Truck Driver in Construction Unit in exigency of services while maintaining his lien in open line. Therefore, his services cannot be regularised as Truck Driver which is a Group-C post and is also a promotional post for Class-IV employees. Thus, this case is fully covered by the aforesaid decision in the case of Aslam Khan (supra) and in this view of the matter, the applicant is

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not entitled to get any relief in this O.A. which is liable to be dismissed.

8. In the result, the OA is bereft of merits and is accordingly dismissed, however, without any order as to costs.


(A.K.Bhatnagar)
Judicial Member


(M.P.Singh)
Vice Chairman

rkv.