

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 2nd day of March, 2001

Original Application No.203 of 2001

CORAM :-

Hon'ble Mr. SKI Naqvi, J.M.

Hon'ble Maj Gen KK Srivastava, A.M.

Gorakhnath Sharma Son of Sri T.N. Sharma,  
Resident of Village and Pos Office Jakhania,  
District Varanasi.

(Sri OP Gupta, Advocate)

. . . . . Applicant

Versus

1. General Manager (P), D.L.W. Varanasi.
2. Chairman Railway Board, New Delhi.
3. Union of India through Secretary,  
Ministry of Railway, Govt. of India,  
New Delhi.

(Sri KP Singh, Advocate)

. . . . . Respondents

O R D E R

By Hon'ble Mr. SKI Naqvi, J.M.

The applicant was appointed as ad-hoc Clerk w.e.f. 12-9-1980. His services were regularised w.e.f. 12-1-1987. His claim is that he shall be regularised right from the date of his appointment for which he came up before this Tribunal vide OA No.119/1992, which was decided on 20-1-1993 with direction to decide the representation of the applicant. The applicant made a representation which has been decided vide the impugned order dated 16-6-1994 and his claim for retrospective regularisation

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has been declined. Thus, the applicant has preferred to knock at contempt side and the contempt petition has been decided <sup>/vide</sup> order dated 21-12-2000. The contempt plea was not entertained but a liberty was given to the applicant that in case he feels aggrieved of that order he can challenge on the original side and, ~~therefore~~ therefore, this present O.A..

*2 Heard the learned counsels for contesting Petition.*

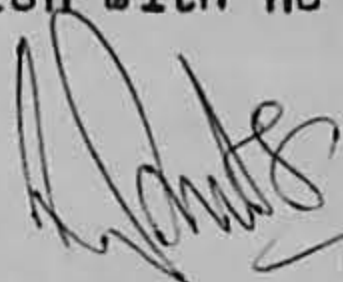
2. The main grievance of the applicant is that his claim has been refused on the ground that regularisation can only be with ~~re~~prospective effect but in similar circumstances regularisation with retrospective effect was allowed to one Km. Bimla Sharma who joined the establishment on 23-11-1975 and her services were regularised vide order dated 25-4-1980 (Annexure-7 to the OA) w.e.f. 23-11-1975. Learned counsel for the applicant emphasises that it is not his fresh plea but the same ground has already been taken while he was prosecuting the matter earlier and this controversy was raised in the rejoinder affidavit to the earlier OA and, therefore, the impugned order is not sustainable and deserves to be quashed. He has also pointed out that this position was dealt in the order dated 29-9-1994 as well (Annexure-A-2 to the OA) but has been kept with very cryptic <sup>mention</sup> ~~creation~~ without analysing both the matters.

3. From the above we find force in the contention of the learned counsel for the applicant and set aside the impugned order 16-6-1994, a copy of which has been annexed as Annexures-A1) and the order dated 29-9-1994 (Annexure-2) and direct the respondents to reconsider the claim of the applicant within three months from the

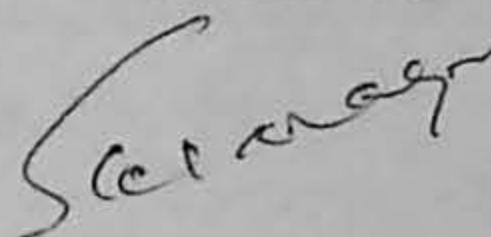
*See 12*



date of communication of this order and pass a detailed speaking order with specific mention of the case of Km. Bimla Sharma and circumstances under which the benefit of <sup>retrospective</sup> ~~reprospective~~ regularisation was allowed to Km., Bimla Sharma and the same benefit is not applicable to the applicant. The OA is disposed of with the above direction with no order as to costs.



Member (A)



Member (J)

Dube/