

10

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(ALLAHABAD THIS THE 19th DAY OF JULY, 2012)

Present

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

HON'BLE MR. SHASHI PRAKASH, MEMBER (A)

Original Application No.1071 OF 2001

(U/S 19, Administrative Tribunal Act, 1985)

Ram Chandra Singh, aged about 52 years,
Son of late Ram Kumar Singh, resident of Shri Yashwant Kumar T.2/D
Railway Colony, Prayag, Allahabad.

.....Applicant

V E R S U S

1. Union of India through General Manager, Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Lucknow.
3. Senior Divisional Personnel Officer, Northern Railway,
Lucknow.
4. Senior Divisional Signal and Telecommunication Engineer,
Northern Railway, Lucknow.

.....Respondents

Advocates for the Applicant:- Shri A.K. Dave

Advocate for the Respondents:- Shri P. Mathur

ORDER

(DELIVERED BY HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J))

The present original application has been filed
whereby the applicant seeks direction from this Tribunal

↑
^

to extend the benefit of letter dated 2.9.1999 (Annexure A-1) and to regularize his services as Class III.

2. It is an admitted case of the parties that the applicant initially engaged as Casual labour w.e.f. 1968 and has regularized in Group 'D' Post as Khalasi w.e.f. 27.4.1971. Subsequently, he was promoted as casual labour on 13.9.1979 on ad-hoc basis as Class III. The applicant retired after attaining the age of superannuation on 30.9.2008 as Class III. Shri Dave who represents the applicant submitted that in terms of letter dated 2.9.1999 issued by the Northern Railway the case of the applicant is to be considered for regularization as he has completed three years of service on ad-hoc basis on 8.5.1987 i.e. the cut of date. He submitted that the respondents have not considered his case for regularization and he worked as such till superannuation as Class III on ad-hoc basis. Therefore, the action of the respondents is illegal and the service of the applicant has to be regularized from the cut of date i.e. 8.5.1987. Shri P. Mathur who represents the respondents submitted that it is not that only having three years service is sufficient,

②

the applicant is subjected to a test for which he was directed but he did not appeared, therefore, his case was not considered.

3. We have considered the rival submissions and have gone through the record and particularly letter dated 19.3.1993 which is the basis for grant of regularization on completion of three years service on ad-hoc basis. The letter dated 19.3.1993 reads as under:-

"The case has been examined and it has been decided that all the persons working as MCC in grade Rs.950-1500(RPS) on ad-hoc basis for more than 3 years on Lucknow can be considered for regularization alongwith their seniors. They may be subjected to selection consisting or written a Viva-Voce test. The action to complete all process may please be taken quickly and give feed back. Sr.DPO/LKO may please ensure personally that no senior, eligible person is left out. However, as regards the regularization of Adhoc MCC working in the const. Organisation, they cannot be regularized as they are working against ex-cadre work-charged posts. They will be considered for their promotion in their regular channel of promotion on open line where

1
r

C.13

they hold their lien, and whenever they become due as per their substantive seniority.

This issues with the approval of CPO/Admn."

Perusal of the above, indicate that those employees who have put in three years of service on ad-hoc basis can be considered for regularization alongwith their seniors with a rider that they are subjected to selection consisting of written a Viva-Voce test. It is not disputed by the respondents that the applicant has worked since 13.9.1979 till he retired on 30.09.2008. Therefore, he is having more than three years service i.e.8.5.1987. This fact has also been specifically clarified by the respondents by their letter dated 2.9.1999 where they themselves admitted this fact that the regularization is based on the basis of scrutiny of service record and viva voce test. Therefore, we are of the considered view that the case of the applicant is to be considered as he has completed three years service on ad-hoc basis on the cut of date i.e. 8.5.1987. The only part remained is that the respondents themselves have to consider the case of the applicant which the respondents have not done for which the applicant cannot be made to suffer. At this stage it is not

1
^

advisable to remand the matter back to the respondents to scrutiny the service record of the applicant. For the reasons that the respondents themselves allowed the applicant to continue on the post and was retired on superannuation on the same post on 30.09.2008, therefore, it is presumed that the applicant has good service record. Therefore, the benefit may be extended to the applicant from the cut of date i.e.7/8.5.1987 and he was given all consequential benefits arise thereupon.

4. In view of the above terms, OA is allowed. The above exercise shall be completed within a period of three months from the date of receipt of a certified copy of this order. No Costs.


Member-A


Member-J

/ns/