

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 128 of 2001

Allahabad this the 09th day of May, 2001

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

P.K. Sharma, aged about 44 years, Son of Shri Vishnu Kumar Sharma, resident of H - 355 - F, Railway Hartha Colony, Muradabad.

Applicant

By Advocate Shri T.S. Pandey

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Moradabad Division, Moradabad.
3. Senior Divisional Operating Manager, Moradabad Division, Northern Railway, Moradabad.
4. Senior Divisional Personal Officer, Northern Railway, Moradabad Division, Moradabad.

Respondents

By Advocate Shri Prashant Mathur

O_R_D_E_R (Oral)

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

The applicant-Shri P.K. Sharma has come up seeking relief as under:-

"(a) Issue any writ, order or direction in the nature of certorari quashing the Panel List

....pg.2/-

S.K.N.

dated 12 Jan. 2000 and the order dated 27 April, 2000, 24 Jan. 2001 (annexures 1, 2 and 3 respectively).

(b) issue further order or direction in the nature of mandamus commanding the respondents to interpolate the name of the applicant in the panel list dated 12 Jan. 2000 regularising the services of the applicant on the post of Section Controller with all consequential benefits of payment of arrears of salaries of the post of Section Controller w.e.f. 2.10.85 till date."

2. As per applicant's case when he was promoted to the post of Assistant Station Master, he was required to work as Section Controller right from 02.10.1985 and he is working as such without benefit to the post. It has also been contended that under similar circumstances six other Assistant Station Masters who worked as Section Controller on ad hoc basis, having lesser number of service as such, were regularised as Section Controller without undergoing the requisite written and viva voce test and thereby the applicant is being discriminated.

3. The respondents have contested the case, filed counter-reply with specific mention that at at no point of time, the applicant was posted on ad-hoc basis to the post of Section Controller, but it was only because of local exigencies that the work of Section Controller was taken from the applicant. It has also been pleaded on behalf of the respondents that the applicant appeared in the

SAC

.. pg. 3/-

selection test on four occasions but he failed in the written test for 3 times and on the fourth occasion he could not secured minimum 60% marks and, therefore, the claim of the applicant cannot be granted for his regularisation to a selection post without ~~he is~~ ^{his} having qualified the selection test.

4. Heard counsel for the parties and perused the record.

5. The learned counsel for the applicant took us through Circular dated 19.3.1976, according to which ~~the~~-panels should be formed for selection post in time to avoid ad hoc promotions. Care should be taken to see while forming panels that employees who have been working in the posts on ad hoc basis quite satisfactorily are not declared unsuitable in the interview. In particular any employee reaching the ^{of} field/consideration should be saved from harassment. Shri Pandey also emphasised that this circular was relied upon by the Principal Bench while dealing with O.A.No.198 of 1996 , decided on 10/11/1999 and there was a direction that the applicant therein had rendered satisfactory ad-hoc service for more than seven years, they became entitled to the benefit of Circular dated 19.3.1976. On the point of holding non-substantive post in the capacity of ad hoc, stop gap, and fortuitous appointment, ~~wee have~~ been taken through 2000(3)Administrative Total Judgments page
392 Rudra Kumar Sain & Ors. Vs. Union of India, wherein

Sain

....pg.4/-

the subject has been dealt at length, holding that appointment to a particular post whereas appointee possesses requisite qualification and appointed with the approval and consultation of the appropriate authority continued on the post for a fairly long period such appointment cannot be termed as stop gap or fortuitous or purely ad hoc. Learned counsel for the applicant has pointed out that as per provision under Railway Manual, there cannot be ad hoc posting to a particular post for a total period of more than 18 months. The applicant has also brought on record annexure-4 dated 30.3.1993 wherein applicant has been shown working as Section Controller on ad hoc basis.

6. With the above position in view and taking into consideration the decision taken by the respondents establishment in the case of ~~six~~ other similarly situated Assistant Station Masters, who worked on ad hoc basis as Section Controller and were regularised as Section Controller, which has been referred in annexure-3 to the O.A., we find that the applicant also deserves due consideration and also that there is provision for waiver from the selection test. Therefore, we decide the O.A. with the following directions, which is the only legally possible relief, that

SAC

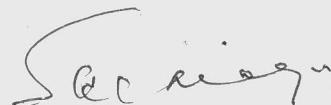
....@pg.5/-

:: 5 ::

can be granted in the present matter;

"The competent authority in the respondent establishment to refer the case of the applicant for regularisation of his services with consequential benefits, to the General Manager within a period of 3 months from the date of communication of this order and the General Manager shall consider the whole matter keeping in view the precedence in this regard and decide the same within three months thereafter."

7. There will be no order as to cost.



Member (J)



Member (A)

|M.M./