

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.302 OF 2004

ALLAHABAD THIS THE 26th DAY OF July 2007

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J
HON'BLE MR. K. S. MENON, MEMBER-A

1. Anurag Sharma, Son of Sri Om Prakash Sharma, resident of RE-10D, Triveni Vihar, Ram Bagh Railway Colony, Allahabad.

Presently working as Supervisor (Work) Railway Electrification, Allahabad.

2. Mohd. Halim Khan, Son of Shafat Mohd. Khan, Working as Technical Supervisor, Railway Electrification, Lucknow.

.....Applicants

By Advocate : Shri S. K. Om

Versus

1. Union of India, through General Manager, Central Organization of Railway Electrification (CORE), Allahabad.

2. Divisional Railway Manager (P), North Central Railway, Allahabad.

3. Divisional Railway Manager (P), Northern Railway, Delhi.

4. General Manager (P), Central Organization of Railway Electrification (CORE), Allahabad.

.....Respondents

By Advocate : Sri A. K. Sinha

ALONGWITH

ORIGINAL APPLICATION NO.304 OF 2004

Nagendra Bahadur Singh, Son of Late Sri Ram Yatan Singh, R/O RE-3 C Triveni Vihar, Ram Bagh, Railway Colony, Allahabad.

Presently working as Supervisor Works Railway Electrification, Allahabad.



.....Applicant

By Advocate : Shri S. K. Om

Versus

1. Union of India,
through General Manager,
Central Organization of Railway Electrification
(CORE), Allahabad.
2. Divisional Railway Manager (P),
North Central Railway, Allahabad.
3. General Manager (P),
Central Organization of Railway Electrification
(CORE), Allahabad.

.....Respondents

By Advocate : Sri A. K. Sinha

O R D E R

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J

Since the facts and the reliefs sought for in both the applications are similar in nature, therefore, both the OA's are decided by a common order.

2. These Original Applications are filed seeking the following reliefs:-

"(i) to issue a writ, order or direction in the nature of certiorari quashing the letter dated 23.7.2003 as well as order of regularization of applicants in Group 'D' category.

(ii) to issue a writ, order or direction in the nature of mandamus commanding the respondents to screen and regularize the applicants in technical Group C category as has been done with regard applicants counterpart working in other Railway Divisions from the date applicants have been regularized in Group D."

3. The brief facts of the case are that the applicant no.1 is a diploma holder in Mechanical



Engineering and was appointed under respondent no.1 on 01.06.1989 as a Mason Mistri on casual basis and he was granted temporary status on 01.06.1990. Later on the Mason Mistri change to Supervisor (Works) in the year 1996 from the beginning the appointment of the applicant in class III category and was posted at Allahabad. The applicant no.2 who is also a diploma engineer in Mechanical grade was appointed on 16.04.1980 as a casual skilled fitter under respondent no.1 and was posted at Tilak Bridge New Delhi and presently he is working as Technical Supervisor Railway Electrification Lucknow. It is stated that the post of Technical Supervisor, Technical Mate, Mason Mistri all are high scaled post in Group C (Class III) category is to be filled directly by the Railway Recruitment Board. Since the initial appointment as casual supervisor in Group C category and both have not worked in Group D category even for a single day. It is further stated that Railway Electrification is a project organization as the same being project organization Railway Board has directed that there is no regularization of any casual labour in the project organization and instead they would be regularization in the open line division of the Railways in which they are initially appointed on casual basis. As the applicants were initially appointed in Allahabad Division and Delhi Division of Northern Railway and, therefore, are liable to be regularized in Allahabad Division and Delhi Division respectively. Even though the applicant are working



in Group C category without there being any justification respondents no.2 and 3 regularize the applicants in Group D category as Khalasi which is in Class IV category by order dated 15.04.1997 and 27.02.1998. And further it is made clear that the regularization of the applicant in the respective divisions is only notional and actually they are still working in Group C as High Skilled Technical Supervisor and Supervisor works. As the applicants are continuously working in group C category in High Skilled Grade, they are liable to be regularized in the technical category in group C against Direct Recruitment quota as provided in para 2007 of I. R. E. M., and also with reference to the Railway Boards circular dated 09.04.1997. On taking into consideration the applicants are liable to be regularized in group C category only and no justification for the respondents to regularize them in Group D, and the action of the respondents is illegal, arbitrary and unsustainable in law and further stated that identical and similarly placed persons aggrieved by the action of the respondents have approached the Jabalpur Bench of this Tribunal by filing OA No.398/1998 which was allowed on 12.03.2003 (the copy of which is produced as Annexure-3). Even though these facts were brought to the notice of the respondents by submitting the representations the respondents have not considered the request of the applicants and rejected to the same by order dated 23.07.2003 (copy of which is produced as Annexure-5).



Hence this application is filed seeking the above mentioned reliefs.

4. On notice the respondents have filed the Counter affidavit in detail and sought for the dismissal of this application. The sum and substance of the respondents reply is that the applicants are not entitled for the reliefs claimed even though they rely upon the judgment, since the matter losses its value when the Apex Court of India has finally settled the matter and further stated that the judgment relied upon by the applicant is not applicable to the case and, therefore, sought for the dismissal of this application.

5. We have heard the learned counsel for the parties and perused the materials on record. The question that arises for consideration is that whether the regularization of the applicant in Group D category is just and proper. The learned counsel for the applicant relying upon the facts of the case and also the order passed by the coordination bench of Jabalpur submitted that the impugned order of the respondent is unsustainable in law, as the same is passed without taking into consideration of the orders passed by the Jabalpur Bench, and further stated that the said order of the Jabalpur Bench was affirmed by the Hon'ble High Court Madhya Pradesh and thereafter the SPL which was filed by the respondents was also dismissed by the Hon'ble Supreme Court by order dated 29.08.2003. On



the other hand the learned counsel for the respondents submitted that the orders relied upon by the applicant are not applicable to the facts of the case, and even otherwise as the applicants are not the party to the said orders and as such it is not binding on the respondents hence the applicant are not entitled for the reliefs claimed. We have perused the order passed by the Jabalpur Bench, in the said order the relevant I.R.E.M. of the Railway Board and also the other orders passed by the Tribunal, ^{we find that the} ~~Were Considered~~ similarity with regard to the issues involved in this application are one and the same which are decided by the Jabalpur Bench, and therefore for the same reasons the applicants are entitled for the reliefs claimed in this application, as the order passed by the Jabalpur Bench was affirmed by the Hon'ble High Court and the Hon'ble Supreme Court. It is clear from the statement of the respondents also on the submission made by the learned counsel for the respondent is that the judgment passed by the Jabalpur Bench is not applicable to the applicant and the same was passed and applicable only to those persons who are party to the said proceedings, and even otherwise also it is pertaining to note that in one of the para of the Counter Affidavit it is stated that, "**the applicants want to remain Group C staff by the virtue of the decision of the Jabalpur Bench but this judgment loses its value when the Apex Court of India has finally settled the matter. If the Bench quashes Annexure A-5, this will be a discrimination as well as unequal**

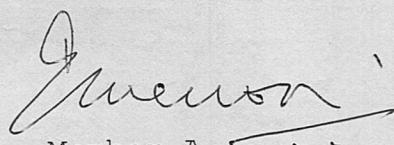


treatment to the employees who have come by Railway Recruitment Board and promotion. As such the applicants are not entitled for relief claims." It is clear from this statement even though the respondents are accepting the order passed by the Jabalpur Bench are only expecting that some order will be passed by the Apex Court of India and settle the matter, by this statement itself make it clear that the respondents are agreed and accepted the Judgment of the Jabalpur Bench and taken note of the same for all purpose to consider the people who are working in the similarly placed circumstances of the applicant and obeyed the orders of the Jabalpur Bench, if that is so there shall not be any discrimination among the persons similarly placed and identically categorized in the department of the respondents, and therefore it follows in the given facts and circumstances of the case as the applicants are similarly placed and identically categorized of the persons who have approached the Jabalpur Bench and the relief is granted to them. Under these circumstances we do not find any justifiable grounds to deny the reliefs claimed by the applicant and as such the applicants are made out a case for grant of the reliefs claimed and the respondents have failed to make out their case for the dismissal of the O.A. The decision relied upon by the applicants are accepted, and decision relied upon by the learned counsel for the respondents are not applicable to the facts and circumstances of



In view of the foregoing reasons this OA is allowed. The impugned order dated 23.07.2003 is quashed and set aside and the respondents are directed to screen and regularize the applicants in technical Group C category from the date of the applicants have been regularized in Group D in accordance with Rules.

No Costs.


Member-A
Member-J

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