

CENTRAL ADMINISTRATIVE TRIBUNAL, JAHAHAD BENCH.

1. O.A.No. 131 of 1992
Ial Ji ShuklaApplicant.

Versus

Union of India & othersRespondents.

✓ 2. O.A.No.173 of 1992
Pradeep Kumar SrivastavaApplicant.

Versus

Union of India & othersRespondents.

3. O.A.No.955 of 1992
Surender Kumar TripathiApplicant.

Versus

Union of India & othersRespondents.

4. O.A.No.1188 of 1992.
Arun Kumar Pandey & othersApplicants.

Versus

Union of India.....Respondents.

5. O.A.No.1189 of 1992.
Satendra Kumar ShahuApplicant

Versus

Union of India & others.....Respondents.

6. O.A.No826 of 1991
Rafaqat Hussain RizviApplicants.

Versus

Union of IndiaRespondents.

Hon'ble Mr.Justice U.C.Srivastava,V.C.

Hon'ble Mr.K.Obayya,A.M.

(By Hon'ble Mr.Justice U.C.Srivastava,V.C.)

As similar questions of fact and law are involved in the aforementioned cases and the reliefs sought for by the applicants are the same, we are going to dispose of these cases in the common judgment.

2. The question which has been raised in these cases is as to whether the Voluntary Ticket Collectors known as Mobile Booking Clerks are also ^{entitled} to the benefit of regularisation as has been done in the case of Voluntary/Mobile Booking Clerks.

3. The applicants were engaged as Voluntary Ticket Collectors in the Northern Railway, under the Allahabad Division for few days during the Ardh Kumbh Mela in the year 1982. Some worked for six days, some 7 days and at the most 15 days. It may be that someone may have been asked to work for few days and thereafter also. In the year 1986, a scheme for engaging Volantry/Mobile Booking Clerks was discontinued which was invoked from before vide Railway Board's letter dated 17.11.86. The letter provided that where ever such arrangements have been made, they should be discontinued forthwith complying with any formalities required or legal requirements. The Board also desired that where engagement of additional hands to meet with spurts in or such rush of work is considered inescapable in further in the exigencies of service, the Railway may adopt one of the following methods depending upon their requirement and local condition.

- i) "Redeploy temporarily regular Group 'C' staff rendered surplus and considered suitable for such assignments.
- ii) subject to suitability, engage on a purely temporary basis, persons from panel furnished by RRB for regular appointment in Group C posts in

similar categories without conferring on such persons a right for regular appointment merely by reasons of this temporary engagements.

- iii) Engage retired railway employees not above the age of 60 years for a period of not exceeding three months after obtaining the approval of board well in time.
- iv) Willing and suitable Group 'C' staff of other wings of commercial branch and also of other department can be utilised where feasible of payment of suitable honourarium where necessary."

4. After disengagement, these Voluntary/ Mobile Booking Clerks were making efforts for getting job with the result that of course some of them approached various tribunals also in this behalf. The case was filed before the Calcutta Bench of the Central Administrative Tribunal namely; "Samir Kumar Mukherjee & others Vs. General Manager, Eastern Railway & others 'AIR 1986 (2) page 7 . In this case, the employees worked continuously without any break w.e.f. 10.1.85 upto the date of judgment they were informed that they will be disengaged in the mid-night of 30.1.86. By that time, they had completed 365 days of continuous engagement. Taking into consideration that they had worked for more than 365 days continuously before they were disengaged, the Calcutta Bench of CAT took a view that the order suddenly disengaging them not only frustrates the directive policy of the State to the utter humiliation and distress of the persons concerned. If the Tribunal took a view that they were casual employees and by working continuously for more than 180 days, they are entitled to be treated as temporary employees. To disengage or dismiss them arbitrarily without notice or without giving any reason is clearly violative of the principles of

natural justice and Articles 14 and 21 of the Constitution of India. Accordingly, the tribunal quashed the order and directed that these applicants before the tribunal will be treated as temporary employees and their service conditions will be governed by the relevant rules of Railways. This matter again came up for consideration before the Principal Bench of Central Administrative Tribunal in the case of 'Miss Neera Mehta & others Vs. Union of India & others, (O.A.No.1174/86 decided on 28.8.87). In those cases, the applicants before the tribunal worked as Mobile Booking Clerks for the period ranging between 1½ years to 5 years i.e. all of them also worked for more than 365 days and their services were terminated by a telegram informing them that they are discharged forthwith. The tribunal after taking into consideration the case of Samir Kumar Mukherjee (Supra) held that

"Once the Railway Board had introduced a scheme of regularisation in respect of the Volunteer / Mobile Booking Clerks and the scheme had in effect continued till 17th November, 1986 with the tacit approval, express or implied, of the Railway Board when they came out with alternative measures for coping with rush of passengers during peak season, restricting the scope of the regularisation scheme to those who were employed prior to 14.8.1981, the so called cut off date when the decision for discontinuing the scheme was taken, but actually not implemented, would be clearly discriminatory, arbitrary and violative of Article 14 of the Constitution. All volunteers / Mobile booking clerks who were engaged on or before 17.11.1986 would be entitled to regularisation of their services on completion of three years of service subject to fulfilment of other conditions as spelt out in circulars dated 21.4.1982 and 20.4.1985."

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5. Reference has also been made to another case 'Mahesh Kumar Singh & others Vs. Union of India & others' (O.A.No.1101/87) and other connected case decided on 23.5.89 in which the tribunal has relied on other two cases and allowed those applications as the facts were somewhat similar. That case was also with reference to Voluntary/ Mobile Booking Clerk and the tribunal followed the decisions in Sameer Kumar Mukherjee and Miss Neera Mehta's case. It is to be noted that in none of these cases, reference was made of Mobile Ticket Collectors. The learned counsel for the applicants has drawn our attention to the case decided by this tribunal in O.A. 793/90 Atul Kashyap & others Vs. Union of India & others which was also a case in respect of Mobile Booking Clerk in which we followed the same decision and allowed the relief. In this case, we have been told that in fact, the applicants were Mobile Ticket Collectors but, it appears, this fact was not noted by us and taking them as Mobile Booking Clerks, we delivered the judgment granting the relief in the same terms. We have also been informed that review application against the same is pending. Our attention has been drawn to another decision by this tribunal in 'Surendra Nath Vs. Union of India & others (O.A.No.50 of 1992)

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in which it appears that the applicants were Mobile Ticket Collector but reliance was placed on the case of Miss Neera Mehta and another case, that is why the relief was granted. The question as to whether the Mobile Ticket Collectors can be put on same, was not considered nor it was considered as to whether the employees who worked for more than 180 days or less than 180 days, are entitled to the same relief or not. Subsequently, the Railway Administration issued another Circular on 6.2.90 the subject of which is 'Voluntary/Mobile Booking Clerks on Railway Consideration of, for absorption in regular employment'. As such the Mobile Booking Clerks who were engaged as such before 17.11.86 were to be considered for absorption in regular employment against regular vacancies, subject to the other conditions stipulated in the letters dated 21.4.82 and 20.4.85. In the said instructions, no reference to the Mobile Ticket Collectors finds place. Our attention has been drawn to re-engagement and re-appointment of one or two other persons who are from the category of Freedom Fighter who worked only for five days. It is not necessary for us to find out under what circumstances this exception was created during that year, against the Railway Board ^{which} clarified its policy and made it clear that the appointments should not be made. The simple question before us is as to whether the Mobile Ticket Collectors who worked only for few days

can also get the same benefit which was given to the Mobile Booking Clerks who worked for more than 180 days. The clear answer is that the benefit of Mobile Booking Clerks who worked for more than 180 days could not be available to those who worked for less than 180 days because they did not attain the temporary status. It is said that some benefit has been given to the Mobile Booking Clerks under the orders of the tribunal who worked for less than 180 days and it appears that the matter was not thrashed out in details as the benefits have been given to the Mobile Booking Clerks and obviously there was no question of asking anyone to take away the benefits but as the Railway Administration also accepted the same and has given the benefits to the Mobile Booking Clerks, it is still open for the Railway Administration to consider the cases of the Mobile Ticket Collectors as that of Mobile Booking Clerk. If they have been re-engaged, the cases of Mobile Ticket Collectors for re-engagement on casual basis or daily basis can always be considered. Accordingly, the respondents are directed to consider and analyse the cases of Mobile Ticket Collectors and to find out if any scheme can be framed by them by laying down a particular criteria for re-engaging them on casual or daily basis. Let a scheme be framed within a period of two months from the date of communication of this order. With these observations, the applications stand disposed of. No

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order as to costs

Let copy of this judgment be placed on the files
of O.A.No.173/92, O.A.No.955/92, O.A.No.1188/92,
O.A.No.1189/92 and O.A.No.826 /91.

Sd-
MEMBER (A)

Sd-
VICE CHAIRMAN

DATED: SEPTEMBER 04, 1992.

Prepared on

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