

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Original Application No.671 of 1992.

Shri Arun Kumar Applicant.

Versus.

Union of India & others Respondants.

Coram:-

The Hon'ble Mr. A.K. Sinha, Member (J).,
The Hon'ble Mr. B.K. Singh, Member (A).

Judgment

(By Hon'ble Mr. A.K. Sinha, Member (J)).

The applicant aforesaid has prayed for a direction to the respondents to re-engage him as Mobile Booking clerk in pursuance of circular dated 6.2.1990 because persons who were engaged as Mobile Booking Clerk after the applicant were re-engaged as such.

2. The short facts giving rise to this application by the applicant under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter called the Act) are that the applicant worked as Mobile Booking Clerk from 11.11.1983 to 9.2.1984 and his services as such was terminated with effect from 9.2.1984 by the oral order notwithstanding that the applicant had satisfactory working which is evident from Annexure A-1 issued by the Station Master, Siswa Bazar Rly. Station, which on perusal, would show that the applicant had performed work as Mobile Booking Clerk for a period of 244 days satisfactorily.

3. It has been contended on behalf of the applicant that in similar such cases filed before this Tribun

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filed before this Tribunal as also before the Principal Bench and in all those cases under similar facts and circumstances, it was held that all those Mobile Booking Clerks who were engaged on or before 17.11.86 shall be regularised and absorbed against regular posts after they have completed 3 years of service. It is further averred that in compliance with the Tribunal's Judgement, the Railway Board issued circular (Annexure A-2) dated 6.2.1990 for re-engagement of the Mobile Booking Clerks to their former post of work as and when they approach the Railway Administration.

4. The case of the applicant is that in pursuance of the said decision of the Rly. Board as contained in Annexure A-2 dt.6.2.1990, he filed application before the Rly. Administration (vide Annexure A-3 dt.9.12.91) for his re-engagement as Mobile Booking Clerk but the applicant has not been re-engaged although persons who were first engaged after the applicant were re-engaged as such in pursuance of the said circular and the applicant has been left over and discriminated in the matter of public employment.

5. The respondents have appeared on notices and filed their counter repudiating the claim of the applicant alleging inter-alia that the application is barred by limitation. It is stated that the applicant never approached the Rly. Administration for his re-engagement as Mobile Booking Clerk. It is stated that all the Ex-Mobile Booking Clerks who have been re-engaged, have been so re-engaged consequent upon the directions issued by the Tribunal. It is submitted that the scheme of Mobile Booking Clerk was only to remove the rush at the booking windows as and when required and after the rush diminished, the services of the Mobile Booking Clerk are automatically terminated. And as such, no

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no order of termination was required to be served.

6. So far the applicants assertion that he was engaged as Mobile Booking Clerk from 11.11.83 to 9.2.84, the same has not been disputed by the respondents and they have admitted that position.

7. The applicant has also filed his rejoinder reiterating his contention as mentioned in his main petition u/s 19 of the Act.

8. We have heard the learned counsels of the parties and perused their pleadings along with the relevant documents annexed therewith. We have also gone through the judgement of this Tribunal passed in Ashok Kumar Shukla's case decided by the division bench of this Tribunal on 7.12.1990 (O.A. No.290/88 and bunch of other cases) which had followed the decision of the Principal Bench passed in Neera Mahta's case (O.A.1174/86) and Miss Usha Kumari Anand's case (O.A. No. 1376/87). We find that the facts of the instant case are very much similar to the above mentioned cases where also the Rly. Board's circular dt.6.2.90 (Annexure A-2) came up for consideration and it was held that all those Mobile Clerks who were engaged prior to 17.11.86 and whose services were terminated shall be reinstated in service.

9. It is an admitted fact that the applicant had worked as Mobile Booking Clerk from 11.6.83 to 9.2.84 and his service as such was terminated w.e.f.9.2.84 by oral order. On perusal of Annexure A-1, it is obviously clear that the applicant was found to have satisfactorily worked as Mobile Booking Clerk from 11.6.83 to 9.2.84 and that shows that he was employed as such prior to 17.11.86 and, therefore, was entitled to the benefit of the judgement of this Tribunal passed in similar circumstances as referred to above. In Rly. Board's circular dt.6.2.90, it is clearly mentioned

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mentioned 'that in the light of the judgement in Neera Mehta and others supra cases and dismissal of SLP No.14612 of 1987 by the Hon'ble Supreme Court on 7.2.89, the Rly. Board issued this instructions to secure implementation of the judgements of Central Administrative Tribunal'.

10. As the issues of facts and law raised in the instant case are almost identical to the issues of facts and law discussed and decided in the cases of Neera Mehta & others (O.A.1174/86) and Miss Usha Kumari Anand & others (O.A.1376 of 1987) and followed in Ashok Kumar Shukla's case referred to above, we are of the view that the applicant who is similarly placed is entitled to the same relief. The learned counsel for the respondents, in course of his arguments, submitted that several cases of this nature were decided by this Tribunal and certain reliefs were given to such mobile booking clerks who were disengaged after a spell of certain period and in the light of those decisions, the same or similar order may be passed in this case also.

11. We also notice that the applicant had approached the Rly. Administration for his re-engagement and had filed petition dt.9.12.91 (A-3) which the Rly. Administration did not consider. In the conspectus of facts and circumstances, we find that the applicant was engaged as Mobile Booking Clerk prior to 17.11.86 and is, therefore, entitled to the advantage of the circular dt.6.2.90. Similar matter came up before a Bench of this Tribunal consisting one of us (Hon'ble Mr. A.K. Sinha, J.M.) in O.A. 228 of 1992 where in direction was given to the respondents to extend the benefit of the scheme prepared for the Mobile Booking Clerks to the applicant and re-engage him and regularise his services in accordance with the terms of the scheme so prepared.

12. In that view of the matter we accordingly direct

the respondents to (i) re-engage the applicant as Mobile Booking clerk irrespective of the period of service put in by him since his engagement as such was prior to 17.11.86 and (ii) that he shall be entitled to 'temporary status' since he had put in more than 120 days continuous service as mobile booking clerk with all the attendant benefits and (iii) further he shall be considered for regularisation and absorption in his own turn according to the scheme and provisions of the Rly. rules in this regard. The process of re-engagement/reinstatement as Mobile Booking Clerk of the applicant shall be completed within a period of two months from the date of communication of this order.

13. The case is disposed of accordingly, there will be no order as to costs.


Member (A).

Ashok Kumar Datta
Member (J).
13-9-1993.

Allahabad:
Dated 13th September, 1993.