

CENTRAL ADMINISTRATIVE TRIBUNAL
ALIAHABAD BENCH
ALIAHABAD.

Allahabad this the 21st day of March 1997.

Original application No. 1330 of 1993.

Hon'ble Dr. R.K. Saxena, JM
Hon'ble Mr. D.S. Baweja, AM

Vijay Prasad Kaul, a/a 37 years,
S/o Sri Hari Prasad Kaul, R/o
B/183, Awas Vikas Colony, Jhansi.

..... Applicant.

C/A Sri R.K. Nigam

Versus

1. Union of India through General Manager, Central Railway, Bombay VT.
2. Divisional Railway Manager, Central Railway, Jhansi.

..... Respondents.

C/R Sri A.K. Gaur

ORDER

Hon'ble Mr. D.S. Baweja, AM

This application has been filed praying for regularisation of the applicant on the post of Junior Chargeman B grade Rs. 1400-2300 without any further process of selection.

2. The applicant is working at the time of filing of this application as Chargeman B grade Rs. 1400-2300 at Gwalior Diesel Shed, Jhansi Division, Central Railway. He was promoted to this post vide order dated 23.5.91 (A-1) on adhoc basis. Since then the applicant is continuing on this post. The applicant claims to be regularised on the post as Chargeman B grade without undergoing the process of selection giving benefits of

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the judgement dated 24.3.87 in O.A. 646/1986 "J.B.L. Srivastava Vs. U.O.I." of this Bench as he has completed more than 18 months continuously in the said grade.

3. The respondents have filed counter reply. It is submitted that the applicant was promoted vide order dated 23.5.91 on adhoc basis with no prescriptive right over the seniors. The applicant was promoted on adhoc basis against quota of 50% of direct recruits pending completion of their training. On availability of the direct recruits, the applicant has been reverted to his substantive post. Further the respondents have also contended that the benefit of the judgement in case of Sh. J.B.L. Srivastava is not applicable to applicant's case and he has not completed three years of adhoc working. In view of these facts, the respondents contend that the application is devoid of merit and deserves to be dismissed.

4. The applicant has filed the rejoinder reply controverting the submission of the respondents and maintaining that he is entitled for the relief prayed for as per the judgement in "J.B.L. Srivastava's case.

5. The learned counsel of the applicant had been either seeking adjournment or not present on several dates. Vide order dated 19.9.96 it was provided that if on the next date none appears or any adjournment is sought, the case will be decided based on the pleadings on the record. On the date fixed for hearing the learned counsel of the applicant had again sought adjournment. In view of the order passed earlier, we

proceeded with the hearing of the case and heard Sri M.K. Sharma proxy to Sri A.K. Gaur learned counsel for the respondents. Even after reserving of the judgement, the learned counsel of the applicant did not make any application or approached for hearing. Accordingly we are deciding the case based on the pleadings of the applicant on record.

6. The fact of the promotion of the applicant vide order dated 23.5.91 (A-II) on a adhoc basis is admitted. The only ground of the applicant for claiming the relief is that he is entitled for regularisation in the grade of Rs. 1400-2300 Chargeman grade B without undergoing selection in terms of what is held in judgement dated 25.3.87 in O.A. 646/1986 'J.B.L. Srivastava Vs. U.O.I.' of this Bench (A-II). We have carefully gone through this judgement. In this case also the applicants were promoted on adhoc basis against the quota of direct recruits and were working continuously for several years starting from 1979 to 1984. Considering various aspects and case laws it was held as under:-

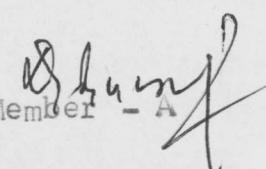
"We also found that all the plaintiffs are not on similar footing. Some were reverted and were promoted in 1987. Some were promoted in 1984. Some others were promoted from a much earlier date. Thus not all of them have been able to qualify themselves for 'long officiating'. We consider that those who have been officiating continuously for more than three years should now be considered for regular absorption from them in the promotional quota and they have been continued because direct recruits and Intermediate Apprentices are not available to fill such posts they should be absorbed against the quota meant for direct recruits and Intermediate Apprentices. The defendants should therefore immediately carry out an exercise to check that the plaintiffs work has been satisfactory and regularisation against the posts without subjecting

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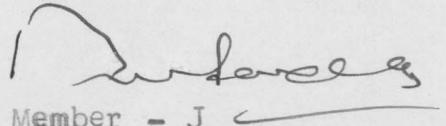
them to written examination which should have been waived under the powers available to the defendants but which we are waiving at this stage on account of the long officiating of some of the plaintiffs. For others who have not qualify for "long officiating" the defendants will be at liberty to subject them to the normal test or to revert them to their substantive posts but if it is decided to continue them they will also be subjected to the same treatment as others except that they may be subjected to the written and viva examination. We have it to the defendants to carry out this exercise."

From the above, it would be seen that the only those who had been "long officiating" i.e. continuously for more than three years have been directed to be considered for regularisation without subjecting to written examinations after determining the vacancy. Those who do not qualify for "long officiating" they will be subjected to normal test or revert them. In the present case the applicant was promoted on adhoc basis on 23.5.91. The application had been filed on 3.9.93. This means that the applicant had not completed three years on that date. In view of this fact, the applicant is not entitled to the benefits of this judgement.

7. In the light of the above, we do not find any merit in the application and the same is dismissed. The parties to bear their own costs.


Member - A

Arvind.


Member - J