CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 9th DAY OF APRIL,1996

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA,MEMBER(A)

(1) Review Application No. 1724 of 1993

In

Original Application No. 1221 of 1991

Union of India and Ors Applicants

Versus

Rakesh Mehta Respondent

(2) Review Application No. 1735 of 1993

In

Original Application No. 1265 of 1991

Union of India and Ors Applicant

Versus

Krishna Raj Tiwari Respondent

(3) Review Application No. 1057 of 1993

In

Original Application No.1266 of 1991

Union of India and Ors Applicant

Versus

Rajiv Kapoor Respondent

(4) Review Application No. 1888 of 1993

In

Original Application No.136 of 1992

Union of India and Ors Applicant

Versus

Udai Raj Respondent

(5) Review Application No.1418 of 1993

In

Original Application No. 197 of 1992

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Union of India and Ors Applicants

Versus

S.S.Z.Naqvi Respondent

(6) Review Application No. 1706 of 1993

In

Original Application No.512 of 1992

Union of India and Ors Applicant

Versus

Dev Raj Respondent

(7) Review Application No.1885 of 1993

In

Original Application No.532 of1992

Union of India and Ors Applicants

Versus

Tribhuwan Prasad Respondent

(8) Review Application No.1894 of1993

In

Original Application No.680 of 1992

Union of India and Ors Applicants

Versus

Ram Sewak Respondent

(9) Review Application No.1862 of 1993

In

Original Application No.968 of 1992

Union of India and Ors Applicants

Versus

Jai Prakash Pandey Respondent

(10) Review Application No.1892 of 1993

In

Original Application No.1642 of 1992

Union of India and Ors Applicants

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Km. Sujata Dhusia Respondent

(11) Review A| ation No. 398 of 1992

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Original ication No. 648 of 1991

Union of India and Ors Applicants

sus

Madan Mohan Pandey alias

Madhu Sudan Pandey Respondent

O R (Reserved)

JUSTICE B.C.SAKSENA,V.C.

These 11 Review app :ions involve identical fact gr and are directed again: eparate judgments rendered by different benches of this ounal which may be noted.

2. In the first review tion, the judgment and order of review which is sought, was ered by a Bench consisting of Hon'ble Justice U.C. Sri va, the then Vice Chairman and Mr. K. Obayya, Member(A) O.A. 1221/91 decided on 9.9.92. A perusal of the said gment shows that the learned counsel for the respon wanted time to file counter. Since earlier one weeks was granted, the request was rejected and the case w cided. In the order, it was observed that the question raised has already been decid earlier O.As. In the earlier O.A implementation of R y Board's circular dated 6.2.90 was sought. The applic had worked as Volunteer Ticket Collectors for a period ive - days at Allahabad raiway station from 16.11.85.

3. Another set of case led by the Mobile Booking Clerks to whom the Railway B s circular dated 6.2.90 would

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apply it was provided in the order passed in the second set of cases that a scheme may be framed by the Railway Administration within a period of four months regarding the re-employment and absorption or regularisation as the case may be and the benefit of the same may be given to such eligible candidates as per scheme so framed. The same directions were given by the Bench in OA 1221/91 Rakesh Mehta Vs. Union of India and Ors.

4. The review petitions ~~acceeded~~ at Sl. Nos. 3,4,5,9 & 10 were decided by a common order dated 11.1.93 by which OAs indicated against the said review petitions as also a few others were decided. In this case also the decision in respect of Mobile Booking Clerks in which Railway Board's circular dated 6.2.90 was held applicable have been applied and similar direction was given in respect of Mobile Booking clerks requiring the respondents to consider the cases of Mobile Booking clerks and to find out if any scheme can be framed by them by laying down a particular criteria for re-engaging them on casual basis. was referred to. A direction was also issued to frame a scheme within a period of three months from the date of communication of the order. It was noted that similar directions have been given in OA 131/92 Lalji Shukla Vs. Union of India and Others.

5. Review application no.6 is directed against the order passed on 5.11.92. The said decision was rendered by the same Bench and was rendered on 22.3.93. It was decided on identical lines as OA 131/92 Lalji Shukla Vs. union of India and Ors as was done in the earlier noted judgments. The judgment in OA 680/92 against which the review application at sl.no.7 have been filed was rendered by the same Bench obn 16.10.92 while in OA 680/92 against which review application at sl.no.6 has been filed was rendered on

14.10.92 by the same bench on identical lines the decisions as noted hereinabove. The decision in review petition no.11 was rendered by a Division Bench consisting of Mr. D.K. Agrawal Judicial Member and Mr. A.B. Gorthi Administrative Member on 25.7.91 at the admission stage itself without issuance of notice to the respondents. In the review petition it has further been stated that the applicant Madan Mohan Pandey alias Madhu Sudan Pandey on his own showing was engaged as Volunteer Ticket collector and his name figured at sl.no.93 of the approved list filed as Annexure A-4 with compilation no.2. A plea had therefore been taken that the Tribunal has totally lost sight of the important fact that the appointment in the form of reinstatement have been given only in the cases of Mobile Booking clerks on the basis of the decision of the Principal Bench in the case of Neera Mehta Vs. Union of India decided on 28.8.87. A perusal of the order passed in OA No. 648/91 Madan Mohan Pandey Vs. Union of India and Ors also shows that the Bench had proceeded to give directions in the light of the decision of the Principal Bench in Neera Mehta's case and applied the provisions of the railway Board's circular dated 21.4.82 and 28.4.82. The respondents in all the review petitions thus were engaged for a short term of 5 to 18 days as Volunteer Ticket collectors and not as Mobile Booking clerks.

6. The short question therefore which has been raised, seeking review of the orders passed in the OAs in favour of the said respondents, is that the Tribunal over-looked the fact that the Railway Board's circular dated 6.2.90 or earlier circulars were confined to Mobile Booking clerks and have no applicability to volunteer Ticket Collectors. This aspect of the matter was also considered by a Division Bench

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consisting of myself and Mr. K. Muthukumar, Administrative Member while deciding a bunch of 73 cases. All the said 73 OAs were decided by a common judgment rendered on 19.12.94. The leading case being OA 83 of 1992 Dilip Kumar and another Vs. Union of India and Ors. In all the 73 OAs aforesaid the applicants had worked as Volunteer Ticket Collectors for a period ranging between 5 to 18 days in the month of January 1982. They sought their re-engagement on the basis of Railway Board's circular dated 6.2.90. Reliance was also placed by the said applicants in support of their claim on the decision of the Principal Bench in OA 1174/84(Neera Mehta and Ors Vs. Union of India and Ors). That case involved Mobile Booking clerks but various benches specially the Bench of Hon.Justice U.C. Srivastava and Mr.K. Obayya had disposed a large number of OAs filed by Volunteer Ticket collectors applying the ratio of decision by the P.B in Neera Mehta's case. One of the said case, decided by the said Bench at Allahabad was the case of Lalji Shukla and Ors Vs. Union of India and Ors OA No. 131/92. In the said decisions a similar direction was given to find out if any scheme can be framed by the railway Authority laying down particular criteria for re-engaging them as casual daily wagers. Against the decision in Lalji Shukla's case an SLP was preferred by the Railway Authority before the hon'ble Supreme Court and the Hon'ble Supreme Court in its judgment dated 7.4.94 passed the following order:

> " Delay condoned. The order only gives a direction to the petitioner to find out any scheme can be framed. The Union of India can examine the matter and if it is not possible to frame a scheme, record [illegible]

is no obligation cast by the impugned order that the scheme should be framed in any case subject to the above observations the SLP is disposed of "

7. Notices were issued in these review petitions and we have heard the learned counsels for the parties. The learned counsel for the applicant in the review petition submitted that identical questions of fact as raised in the review petitions was involved in review petition no. 566/93 which was decided on 30.4.93 and which arose out of OA 50/92 in Re: Surendra Nath ram Vs. Union of India as also review petition no. 324/92 decided on 1.3.93 by this Tribunal which arose out of the order passed in OA 690/91 Re: L.M. Dubey Vs. Union of India and Ors. It has also been submitted that in the said review application no. 566/93 this question was squarely considered and the following observation was made by a Bench consisting of Mr. K. Obayya and Mr. S.N. Prasad, Member(J) " that after considering the matter the

application of the applicants were allowed and the respondents were directed to reinstate the applicants in service and accord them temporary status after verifying the particulars and work of the applicants and after find that they have put in more than 120 days continuous service they may be considered for regularisation and permanent absorption against regular vacancies in accordance with the scheme of Railway Board's

letters dated 21.4.82 and 20.4.85"

The Bench observed that this clearly shows that the applicants were not to get benefits if they had not worked continuously for 120 days or more and it was further observed that the Railway Board's letter dated 21.4.82 and 20.4.85 relate to Mobile booking Clerks and not Volunteer Ticket collectors. The Volunteer Ticket collectos cannot take any benefit of the letters relating to Mobile Booking Clerks because both belong to separate class.

8. It has also been pointed out that in the review petition no. 324/92 in OA 690/91 L.M. Dubey Vs. union of India and Ors in para 3 of the judgment in the review the following observation was made:

> "We have heard the learned counsels for the parties, inasmuch as the decision of the Principal Bench was only in respect of the Mobile Booking clerks and not Volunteer Ticket collectos and the applicant was not governed by the decision in Neera Mehta's case under the scheme of Mobile Booking clerks.

9. The judgment in L.M. Dubey's case was recalled with the following observation:

> " That Mobile Booking Clerks and Mobile Ticket Collectors are one and the same but the administration has pointed out that the cadres are different and their duties and responsibilities are not similar."

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10. The same situation obtains in the present review petitions. The learned counsel for the respondent in review petition no. 1724/93 in OA 1221/91 noted at sl.no.1 hereinabove, has placed for our consideration a decision dated 27.7.95 passed in various civil appeals. The leading appeal being Union of India and Ors Vs. Pradeep Kumar Srivastava. The said decision has no applicability ~~as was~~ in the said review application and other review applications. ~~are concerned therein~~ The Hon'ble Supreme Court proceeded on the basis that the respondents in the said appeals had worked as Mobile Booking clerks in the Railways for various periods prior to 17.11.86 and held that the facts in the said appeals are the same as thus in the matter relating to Miss. Usha Kumari Anand and Ors Vs. Union of India and Ors reported in AIR 1989(2)C.A.T 37. Reference was also made to the decision in Neera Mehta and Ors Vs. Union of India and Ors reported in ATR 1989(1) CAT 380 and it was held that the respondents in the appeals were similarly circumstanced. The appeals were disposed of giving the same direction as given by the Tribunal in its order in Usha Kumari's case. In the present review petitions the respondents had worked as Volunteer Ticket Collectos and not as Mobile Booking Clerks as observed above. In some review petitions noted hereinabove, the two categories were found to be different in strength and class and the benefit of the Railway Board's circular dated 6.2.90 and earlier circulars of 1984 will govern only Mobile Booking Clerks and not Volunteer Ticket Collectors.

11. In the light of the discussion hereinabove, the review applications succeed and the various orders passed in the

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various OAs noted hereinabove against which the review petitions have been filed are recalled. The parties shall bear their own costs.

MEMBER(A)

VICE CHAIRMAN

Dated: April 9th, 1996

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