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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDL. BENCH
ALLAHABAD

DATED: THE 3rd DAY OF JULY 1997

CORAM : HON'BLE DR. R.K.SAXENA, J.M.
HON'BLE MR. S.DAYAL, A.M.

ORIGINAL APPLICATION NO.1174 OF 1993

Mahesh chandra Sahu, aged about 37 years
s/o Shri Moti Lal Sahu,
R/o 9, Laskar Line,
Old Bairhna, Allahabad.

.... Applicant

C/A Shri A.K.Banerjee, Adv.

Versus

1. Union of India,
through the General Manager,
Northern Railway,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Allahabad.
3. The Senior Divisional Signal
and Telecommunication Engineer (M),
Northern Railway, Allahabad.
4. The Assistant Signal and Telecommunication
Engineer, R.R.I.(M), Northern Railway,
Kanpur.
5. Sri Deep Chand,
Junior to the applicant.
Now working under respondent no.3
as Grade-I Driver.

.... Respondents

C/R Shri A.K.Gaur.

ORDER

BY HON'BLE DR.R.K.SAXENA, J.M.-

The applicant Mahesh Chandra Sahu has come to the Tribunal through this Original Application to seek direction to the respondents for his regularisation as truck driver-cum- Group 'C' service from the date when his juniors were regularised.

2. The facts, as emerged from the pleadings of the case, are that this applicant was engaged as casual truck driver in March 1976. He was given temporary status on 16.2.1978 and was placed in C.P.C. scale since then. On 19.2.1980, he was served with a notice of retrenchment which was challenged by filing petition no. 4292/1980 before the High Court. The said writ petition was transferred to the Tribunal on its being created and was allotted T.A.No.1481/1987. The Tribunal had decided the said T.A. on 3.7.1989 and the order of retrenchment was quashed. The applicant continued in service on the basis of the stay order and thereafter by the decision in his favour. His grievance now is that the respondents are not considering his case for regularisation and further promotions. It is contended that one Deep Chandra respondent no.5 who is junior to the applicant, was promoted to grade II Driver in 1989 and Grade I driver in January 1993 but the services of the applicant have not been regularised on the other hand. He, therefore, approached the Tribunal to seek remedy and the discriminatory attitude about the applicant by the respondents.

3. The respondents have filed the counter-reply admitting that the applicant was engaged as casual truck driver on daily wages. It is also admitted that on

completion of 120 days he was given temporary status and was placed in the scale of Rs.260 - 400 with effect from 16.2.1978. As regards his retrenchment, it is contended that because of the approval of a permanent staff, his services were terminated but he continued ⁱⁿ the service on the basis of the stay order and ultimately decision ~~was~~ in his favour. It is stated that normal procedure for regularisation of casual labour is through the process of screening. That procedure is for Group 'D' category post. It is denied that such a procedure could be adopted for group 'C' post. It is further contended that the applicant was directed to appear for screening ^{to attend the same,} in group 'D' post but he failed and thus the O.A. is opposed.

4. The applicant has filed rejoinder and stated that the pay scale of Rs.260 - 400 is of group 'C' post, and certain other employees had been regularised on group 'C' post. In this connection, the order Annexure R.A. 1 has been brought on record. It relates to casual wireless maintainers who were screened for and absorbed in the grade of Rs.950 - 1500 which is stated to be revised grade of Rs.260 - 400. It is also claimed by the applicant that in the past, the respondents had directed him to appear in the screening of the truck driver as was clear from annexure-R.A.2 and a railway pass annexure- R.A.3 was given to reach Delhi.

5. We have heard the learned counsel for the applicant and the respondents. The record is also perused. The dispute involved in this case is whether screening for group 'C' post, is ^{required} made or not. The applicant contends

that he is working on the post of truck driver which falls in group 'C' post, ^{and thus} he should be screened and regularised on that post. The respondents, on the other hand, have stated that the screening is done in the case of Group 'D'. This fact is ~~ever~~ contradicted by two documents which have been brought on record by the applicant along with the rejoinder affidavit. It appears from the perusal of Annexure-R.A.2 that the screening test for the post of the truck driver was held on 11.2.1981 and the applicant was asked to go there. The ^{other} document was that casual wireless maintainers grade III in the pay scale of Rs.950-1500. This fact finds support from annexure-R.A.1. Thus emerges that the contention of the respondents that no screening is done for class III post in general or truck driver in particular, is not correct.

6. The contention of the applicant is that the respondent no.4 Deep Chandra was also a truck driver and he was junior to the applicant. He contends that this Deep Chandra has not only been regularised but he was made truck driver class II and thereafter the truck driver class I. Deep Chandra did not appear and controvert this fact. The respondents nos.1 to 4 on whose behalf counter affidavit has been filed, gave the only reply that the case of Deep Chandra is different. What difference is there it has not been spelled out. We are, therefore, not convinced ^{with} this kind of evasive reply. What appears is that Deep Chandra who was junior to the applicant was not only regularised but two promotions were given to him. There is no justification to make such a discrimination in the case of the applicant.

7. On the consideration of all these facts, we allow O.A. and direct the respondents to conduct screening of the applicant for the post of truck driver and if he is found suitable in the screening, his case for promotion should also be considered. No order as to cost.

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MEMBER (A)

Dudasee
MEMBER (J)

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