

(11)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Dated : This the 19th day of April 2002

Original Application no. 224 of 1994.

Hon'ble Mr. Justice RRK Trivedi, VC
Hon'ble Maj Gen K.K. Srivastava, AM.

1. Madan Lal Bhatnagar, S/o late Sri M.P. Bhatnagar,
CL. Clock Fitter III, S & T Department,
N. Rly Moradabad Division,
R/o House no. B.L./139/1, Din Dayal Nagar,
Kauth Road, NDA Colony,
Moradabad.

2. Mohan Lal, S/o Sri Kalloo Ram,
Casual Wireless Maintainer (WMR),
S&T Department, N. Rly.,
Moradabad Division, Moradabad,
R/o H. No. 88-B, Railway Harthala Colony,
Moradabad.

... Applicants

By Adv : Sri MK Updhayaya
Versus

1. The Union of India,
Through the Secretary, Ministry of Railways,
Rail Bhawan, New Delhi.
2. The General Manager, N. Rly., Baroda House,
New Delhi.
3. Divisional Railway Manager,
N. Rly., Moradabad Division,
Moradabad
4. The Divisional Personnel Officer, N. Rly.,
Moradabad Div.,
Moradabad.
5. Sr. Divisional Signal and Telecommunication Engineer,
S & T Department, N. Rly., Moradabad Div.,
Moradabad.

... Respondents

By Adv : Sri Amit Sthalekar

...2/-

(2)

2.

O R D E R

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.

By this OA, filed under section 19 of the A.T. Act, 1985, the applicants have challenged order dated 10.1.1994 (Ann A1) by which the applicants and one Sri Sudershan Lal Bisnoi were called to appear for screening test alongwith their certified copies of documents.

2. The case of the applicants ^{18.4} ~~are~~ that they were working against group 'C' post as casual labour from 1974-75. Applicant no. 1 was working as Clock Fitter whereas applicant no. 2 was working as Wireless Maintainer, (Both are group 'C' Post). These facts are not disputed. Grievance of the applicants ^{18.4} ~~are~~ that they could not be called for screening for regularisation against group 'D' post, as they had already worked ^{for} about 20 years on group 'C' post. The applicants submitted that one Sri S.L. Bisnoi filed OA no. 1455 of 1992 which was decided finally on 14.11.2000 and the direction was given to regularise him against group 'C' post in the same manner in which six drivers were regularised who were applicant ⁱⁿ in OA 725 of 1998.

3. Sri A. Sthalekar, learned counsel for the respondents on the other hand submitted that it is true that the applicants were working as casual labours against group 'C' post as both ~~the~~ ^{the} post of Clock Fitter and Wireless Maintainer are promotional post, they could not be regularised directly on the said post. They could firstly ^{be} regularised against group 'D' post and, thereafter, they could be regularised as Clock Fitter and Wireless Maintainer (Group 'C' Post).

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3.

Learned counsel for the respondents has placed reliance on Full Bench Judgment (^{Jaipur} ~~Jabalpur~~ Bench) of this Tribunal in case of Aslam Khan Vs. U.O.I. & Ors 2001 (2) ATJ 1.

4. We have considered the submission of learned counsel for the parties and also perused the judgment.

5. The order in case of S.L. Bisnoi was passed as the bench was not aware of the Full Bench Judgment in case of Aslam Khan (supra). The Full Bench in the above case after considering this controversy as to whether casual labours working against group 'C' post can be regularised or not, has given the answer in negative. In para 9 of the judgment contains the answer which reads as under :-

"In the result, we answer the reference as under:

A person directly engaged on Group 'C' post (Promotional) on casual basis and has been subsequently granted temporary status would not be entitled to be regularised on Group C post directly but would be liable to be regularised in the feeder cadre in Group D post only. His pay which he is drawing in the Group C post, will however be liable to protected."

5. In the circumstances in our opinion there is nothing wrong in the order, if the applicant is not screened in group 'C'. However, it will be subject to the judgment in case of Aslam Khan (supra), on other words, the applicants will be entitled to be regularised against group 'D' post, but they will be entitled for pay protection. We further make it clear that in case the applicants have already been regularised, following our orders in case of SL Bisnoi they may be continued. The OA is disposed of accordingly with no order as to costs.