

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 06th day of November, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Maj. Gen. K.K. Srivastava, A.M.

Orginal Application No. 669 of 1994.

*Smt. Anita Rastogi W/o Late D.P. Rastogi*  
*135, Gariwan Tola, Allahabad.*

.....Applicant

Counsel for the applicant :- Sri S.S. Sharma

V E R S U S

1. Union of India Owned and represented by the Northern Railway, Notice to be served upon the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Administrative Officer/ Construction, Northern Railway, Kashmere Gate, Delhi- 6.
3. The Dy. Chief Engineer/ Construction, Northern Railway, Allahabad.

.....Respondents

Counsel for the respondents :- Sri G.P. Agrawal

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this application under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for direction to respondents to absorb the applicant Late D.P. Rastogi as S.O.M from the date of his appointment i.e 10.10.1985. He has also prayed that respondents may be directed to pay the salary in the grade of 1400-2300/- after due fixation under rules.

2. The facts of the case giving rise to this application are that applicant <sup>late D.P. Rastogi</sup> was a Diploma Holder in Civil Engineering and he was appointed on daily wages, Highly Skilled Mistry Gr. III on 10.10.1985 in the scale of Rs. 330-560/- . Applicant worked for a period of nine years continuously in this scale. Work and conduct of the applicant was good. He was awarded cash prizes from time to time. He filed this O.A in this Tribunal on 22.04.1994 for the aforesaid reliefs. However, he ~~ultimately~~ died in a train accident on 29.08.1995.

3. It is not disputed that Railway Board on 14.02.1994 introduced the scheme for casual labour holding diploma in Civil Engineering working in the Construction Department of Northern Railway. A copy of the scheme has been filed as annexure- 2 to the CA. Under this scheme, claim of the applicant was also forwarded for consideration and he appeared in the same. The scheme of order dated 14.02.1994 is being reproduced below :-

".....

(a) All the persons holding Diploma in Civil Engineering and working as casual labour in the Construction Organisation in Northern Railway in the grades Rs. 950-1500/-, Rs.1200-1800/-, Rs. 1200-2040/-, Rs.1320-2040/- with designations like Mistry/SOM/M. Mistry/ H.S Mistry for a number of years, may be given an opportunity to appear in the RRB recruitment to the posts in accordance with their suitability and qualifications. They will be allowed exemption from the age restriction for appearing in the RRB Examination. This will be in line with the action taken in the case of similarly placed persons (Casual Labour Holding Diploma in Civil Engineering and working as Casual Highly Skilled Technical Mistris in Construction

department in different grades like Rs. 950-1500, Rs. 1200-1800, Rs. 1200-2040 on Central Railway) which was decided by the Hon'ble Supreme Court vide their judgement dated 03.05.89 in writ petition No. 965 of 1988 with Civil Misc. Petition No. 25092 of 1988- Manoj Kumar Srivastava & others Vs. Union of India and others.

(b) After an opportunity has been afforded as above, those who did not avail of the opportunity or availed bit did not succeed, may be considered for absorption as Skilled Artisan Gr.III in scale of Rs. 950-1500/- against 25% quota for direct recruitment in the Civil Engineering Department as has been allowed in the case of Central Railway cited above. A copy of Railway Boards' letter No. E(NG)II/90/RC-3/36(CAiii) dated 11.05.1992 in connection with the Central Railway's case is enclosed for ready reference.

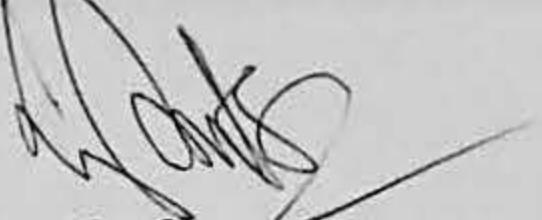
(c) Notwithstanding the above scheme being drawn and implemented, those who can be absorbed as Skilled Artisan Gr. III Rs. 950-1500 against 25% of the quota of the vacancies earmarked for departmental promotion from un-Skilled and Semi-Skilled categories, in accordance with the provisions contained in para 2007 (iii) of I.R.E.M, will continue to be absorbed as such."

4. In view of the fact that applicant's claim was forwarded and considered by the authorities, it was obligatory on the part of the respondents to communicate the decision taken about him under the scheme. There is no material on record to show that the decision was communicated to the applicant. The applicant could have been entitled for the same benefit. Now the ~~same~~ <sup>terminal</sup> benefit may be given to the widow of the applicant who has been substituted in this case. If his services have been regularised under this scheme, applicant ~~is~~ <sup>shall be</sup> also entitled for the family pension. All these questions ~~are~~ <sup>should have</sup> been determined by the railway authorities after looking in to the record of the ~~scheme~~ <sup>case</sup>.

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5. In the facts and circumstances above, we disposed of this O.A finally with liberty to the widow of applicant, Smt. Anita Rastogi to make representation before the Chief Administrative Officer/ Construction, Northern Railway, Kashmere Gate, Delhi-6 (respondent No.2) within a period of one month from the date of receipt of copy of this order. The representation if so filed alongwith copy of this order, it shall be considered and decided by a reasoned order within three months from the date it is filed.

6. There will be no order as to costs.



Member - A.



Vice-Chairman.

/Anand/