

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.**

Original Application No. 1026 of 1995.

Alongwith

Original Application No. 999 of 1995.

Allahabad this the 10th day of September, 2003.

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

Hon'ble Mr. D.R. Tiwari, Member-A.

1. Dr. Rajesh Kumar Sharma
Son of Sri Mahesh Pal Sharma
2. Vinoba Nand Tiwari
Son of Sri Vizianand Tiwari.
3. Chandra Bhushan Kumar
Son of Sri Saudagar Singh.
4. B.N. Tiwari
Son of Late Badri Tiwari.
5. Rakesh Kumar
son of Sri Dalel Singh.
6. Shyam Babu
Son of Late Munshi Lal.

All working as a Clerks (In grade Rs. 950-1500
under Divisional Rly. Manager (P) N.E Rly,
Izatnagar, Bareilly.

.....Applicants (In O.A. 1026/95)

(By Advocates: Sri A.K. Sinha/P.S. Sinha).

Versus.

1. Union of India
through the General Manager
(P) North Eastern Rly.
Head Quarter Office, Gorakhpur.
2. Divisional Rly. Manager (Personal)
N.E. Rly., Izatnagar, Bareilly.

.....Respondents in O.A. 1026/95.

(By Advocate : Sri Lalji Sinha)

1. Sri Pal Sharma
S/o H.R. Sharma,
r/o Q. No. 7188, New
Model Colony, N.E Rly,
Izzatnagar, Bareilly.
2. Vinod Kumar Sharma
s/o Sri Satendra Pal Sharma
r/o 30A Rly. Colony Badaun.



3. Daddan Kumar Singh
s/o Sri Trivani Singh,
r/o 25 B New Model Rly. Colony,
Izzatnagar, Bareilly.

.....Applicants in O.A. No.999/95.

(By Advocate : Sri S.K. Om)

Versus.

1. The Union of India
through the General Manager,
Northern Eastern Railway,
Gorakhpur.
2. Divisional Railway Manager,
N.E.R., Izzatnagar,
Bareilly.
3. Senior Divisional Engineer I
N.E. Railway, Izzatnagar,
Bareilly.
4. Senior Divisional Personal Officer,
N.E. Railway, Izzatnagar, Bareilly.

.....Respondents in O.A. 999/95.

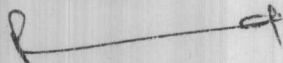
(By Advocate : Sri G.P. Agrawal)

O R D E R (Oral)

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

In both the O.As question of facts and law are similar and they can be disposed of finally by common order against which counsel for parties have no objection. O.A No. 1026/95 shall be leading case.

2. The facts, in short, giving rise to this application are that the respondents under notification dated 10.10.1991 proposed to promote and appoint 08 clerks in grade of Rs. 950-1500/- on adhoc basis to meet minimum requirements of administration. In pursuance of this notification the written examination was held on 03.03.1992 and a panel of selected candidates was declared on 01.04.1992. It may be mentioned here that in O.A No. 1026/95 applicants No. 1,3,5 and 6 have already been promoted in their cadre and they are not



interested in pursuing the present O.A. The O.A is being pressed only for applicants No. 2 and 4. Both the applicants were included in the panel and they were issued appointment letters dated 10.08.1992 (Annexure- 5) and 11.08.1992 (Annexure- 6). The applicants are continuing since then on adhoc basis. They have filed O.A for direction to respondents to regularise and absorb[✓] them against clear vacancy. They have also prayed that respondents may not be repatriated/~~reverted~~[✓] the applicants from class III to class IV post.

3. The facts in O.A 995/95 are that the applicants appeared in the written examination in the year 1990 for selection and promotion as class III employee. ^{They} passed the written test as well as viva-voce but could not be included in the panel on account of lower seniority. The applicants were, however, given subsequently adhoc promotion in the year 1990 and 1991 on basis of the selection held. They have also claimed that they are ^{being} continuing on adhoc basis and the respondents may be directed to regularise them.

4. Resisting the claim of the applicants counter reply has been filed by the respondents. It has been stated by the respondents that applicants could not be reverted/ repatriated on account of pendency of the present O.A. It has also been stated that there was no work but they had been continued.

5. On behalf of the applicants M.A No. 3212/99 was filed in O.A No. 1026/95. The document filed as annexure- 2 of this M.A is very relevant. It is dated 11.06.1999. It contains the detail report about adhoc clerks continuing in the establishment on the different posts. Against column



No. 1 the report given is that on account of large scale ~~of~~ vacancies they could not be repatriated/reverted to the lower posts and they had been continuing. Against column No. 5 it has been stated that even after 13 appointments on adhoc basis, there are 18 vacancies.

6. We have heard Sri S.C. Budhwar, Learned Senior Advocate assisted by Sri A.K. Sinha in O.A No. 1026/95 and Sri S.K. Om, learned counsel for applicants in O.A No. 999/95 and Sri Lalji Sinha, learned counsel appearing for the respondents in O.A 1026/96 and Sri G.P. Agarwal in O.A No. 999/95.

7. Learned counsel for the applicants has submitted that if the adhoc appointments are continued for long time, the benefit of regularisation should be given and for this purpose he has placed reliance on the Railway Board's Circular dated 11.07.1983 (Annexure- 8). From perusal of the aforesaid circular, it is clear that Hon'ble High Court compelled the Railway to consider all the adhoc appontees for regularisation in pursuance of the Railway Board's Circular dated 15.01.1966 and explanation given by the Railway Board on 09.06.1965. In the circular dated 11.07.1983 (Annexure A-3) it has been stated that the same position continued as no final ^{decision} could be obtained from Hon'ble Supreme Court. In view of the aforesaid submission the legal position is that benefit of regularisation can be given in view of the circular dated 15.01.1966 and explanation dated 09.06.1965. In our opinion, the applicants are entitled for the benefit of the aforesaid Railway Board's Circular. It may also be mentioned here that names of two applicants of O.A No. 1026/95 and 3 applicants of O.A No. 999/95 are included in the list annexed with the letter dated 11.06.1999 (Annexure -2 to

R—P

M.A No. 3212/99).

8. For the reasons mentioned above as the applicants have been continuing on adhoc basis as clerks for more than 10 years, they are entitled for a direction to the respondents to consider them for regularisation in terms of the Railway Board's letter mentioned above. The applicants were selected for adhoc appointment after written examination and viva-voce and they had satisfied the conditions for grant of such benefit. Both the O.As are disposed of finally with the direction to respondent No. 2, Divisional Railway Manager (Personnel), N.E.Rly, Izatnagar, Bareilly to consider the regularisation of applicants No. 2 and 4 in O.A No. 1026/95 and 3 applicants of O.A No. 999/95. The exercise of consideration ^{for regularisation} shall be completed within four months from the date of communication of this order.

9. There will be no order as to costs.