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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1000/95 AND 1001/95
ALLAHABAD THIS THE 10TH DAY OF DECEMBER, 2002

HON'BLE MR. GOVINDAN S. TAMPI, A.M.

HON'BLE MR. A.K. BHATNAGAR, J.M.

Prem Math Prasad,
Draftsman,
Under XEN (Survey),
N.E. Railway,
Gorakhpur.

Applicant in O.A. No.1000/95

Sri Om Prakash Kashyap,
Draftsman,
Under Executive Engineer,
N.E., Railway,
Gorakhpur.

Applicant in O.A. No.1001/95

..... Applicants

(By Advocates Shri R.P. Srivastava & P.K. Kashyap)

Versus

1. Union of India,
through G.M.,
N.E. Rly.,
Gorakhpur.
2. G.M. (P)/Chief Personnel Officer,
N.E. Rly.,
Gorakhpur.
3. Chief Administrative Officer (Cons),
N.E. Railway,
Gorakhpur.
4. Shree Subhash Singh,
Tracer, Under Deputy Chief Engineer (Cons),
N.E. Railway,
Varanasi.

Respondent in O.A. No.1000/95

5. S.L. Das,
Draftsman,
Under C.S.T.E., (Cons),
N.E. Railway,
Gorakhpur.

Respondent in O.A. No.1001/95

(By Advocate Shri A.V. Srivastava)

O R D E R

HON'BLE MR. GOVINDAN S. TAMPI, MEMBER-A

None was present for the applicants even in the third call. We are therefore disposing of these O.As in terms of Rule 15 of the CAT (Procedure) Rules 1987.

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2. Applicant's in both the O.As were recruited as Casual Labourer Tracer (Class III) on 16.08.1980 and 21.08.1976 respectively and are presently working as Draftsman. The cases of both the applicants were taken up for regularisation in class III post in June 1983 which was accepted in January 1985. Thereafter both appeared for the screening test and had performed well in the test. Their cases for relaxation of over age had also been initiated. Thereafter, on 04.09.1985, the applicants were informed that the results of the screening test could only be interim, though they were also granted relaxation in respect of age. No action has been taken for interpolating their names. The list have been regularised in respect of the candidates already considered for regularisation who were found suitable. The applicants have denied the same even after the lapse of four years. The applicants being educationally qualified have been given necessary relaxation in age. There was no ground to have awaited so long and denying them relaxation, Hence these O.A.s.

3. The grounds raised in the O.As are that:-

- i) Railway Board had already given approval for their regularisation.
- ii) Relaxation of age was necessary.
- iii) The screening process started should have framed in operation till the reply was received on the relaxation of age.
- iv) Since few of the juniors have been regularised, there was no reason why the applicants case could not have been considered.

4. The plea raised by the applicants are stoutly denied by the respondents who have stated that the Casual Labourers engaged in the construction organisation are being screened for absorption against regular Group 'D' post. A few Casual Labourers who were engaged against class III post for project work had been granted relaxation in Class III and other cases were sent to Railway Board for consideration. The Railway Board's direction were that the same could be considered only

if the individuals were qualified, otherwise and in both references to age and also by academic qualification. As the case of the individuals could not be covered their regularisation could not be granted. Their request for relaxation in class III could not be considered as the same was not provided for under the Rules.

5. Shri A.V. Srivastava, learned counsel for the respondents reiterated the case of the respondents and pointed out that the matter regarding the relaxation of the Casual Labour worker in class III post has already been settled by the Full Bench decision of the Tribunal in Aslam Khan Versus Union of India and Others in O.A57/96, pronounced on 13.10.2000 which has been relied upon by this bench in O.A1128/99, filed by Shri V.N. Pandey and others while reject the request of the applicants for relaxation in class III. The same should hold good in these O.As is also pleaded by Shri Srivastava.

6. We have carefully deliberated on the rival contentions. What the applicants are seeking is, their regularisation in Class III as they were engaged as casual labourers in construction/Project organisation. We find that the issue has been fully settled by the decision of the Full Bench of the Tribunal in Aslam Khan Versus U.O.I. and others in O.A57/96, pronounced on 13.10.2000 which has been relied upon by this Bench in O.Ano.1128/99. The relevant portion of the Full Bench decision is as below:-

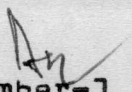
"A person directly engaged on Group C post (Promotional post) on casual basis and has been subsequently granted temporary status would not be entitled to be regularised on Group 'C' post directly, but would be liable to be regularised in the feeder cadre in group 'D' post only. His pay which he draw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

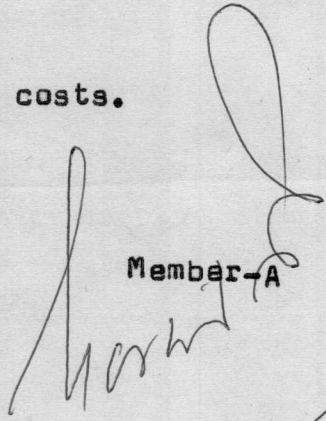
This Division Bench is bound by the decision of the Full Bench as a matter of judicial discipline. The O.As filed by the

applicants seeking regularisation in class III (Group C) will, therefore, have to fail. However, the pay being drawn by the applicants would have to be protected.

7. In view of the above matter, we find that the applicants have not made out any case for out interference. The O.As, therefore, fail and are accordingly dismissed with the only rider that the pay being drawn by the applicants in class III/Group 'C' would not be reduced.

8. There shall be no order as to costs.


Member-J


Member-A

/Neelam/