

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

....

original Application No. 74 of 1999

this the 4th day of February 2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

1. Mahendra Prasad Singh, PWM under Section Engineer, P.Way Gorakhpur yeard, N.E.R., Gorakhpur.
2. Raghav Ram Dwivedi, PWM Under SSE (Cons.), works N.E.R. Anwarganj, Kanpur.

Applicants.

By Advocate : Sri A. Srivastava.

versus.

1. Union of India through the G.M., N.E.R., Gorakhpur.
2. G.M. (P)/Chief Personnel Officer, N.E.R., Gorakhpur.
3. Chief Administrative Officer (Cons.) N.E.R., Gorakhpur.

Respondents.

By Advocate : Sri K.P. Singh.

O R D E R

By this O.A., two applicants have sought the following relief(s):

- "(i) That the impugned orders issued by CAO (c), North Eastern Railway, Gorakhpur issued vide letter no. E/227/8/BG/Screening Chan/Part I/ 3948 and dated 31st December' 97 be quashed.
- (ii) That a mandatory writ/order be issued to the respondents to regularise the services of the applicants in Group 'C' on completion of 5(five) years service in Group 'C' as per direction of the Supreme Court in the case of Ram Kumar & Others."
2. Grievance of the applicant in this case is that even though they were engaged directly as Labour Mate in Construction department of N.E.R., Gorakhpur from 25.1.81 and 21.2.77 respectively and were even further promoted as P.W. Mate w.e.f. 16.11.93 and 26.10.93 respectively, yet instead of regularising them as Group 'C', they have been regularised as Group 'D' employee in Railways by the impugned



order (page 11). Applicants have annexed the records to show that they were indeed engaged as Mate on the dates as mentioned above and were promoted on adhoc basis as P.W. Mistry. It is submitted by the applicants that they could not be regularised in Group 'C' as by mistake ^{when P2} at the time ~~of~~ initial lists were sent, applicants were shown to have been engaged as semi-skilled employees, whereas they were engaged as Mate, which is evident from the letter dated 1.1.92 annexed with the Supplementary affidavit as Annexure SA-5. Counsel for the applicants submitted that in the case of Ram Kumar & Ors. vs. U.O.I. & Ors. reported in 1996 (1) SLJ (SC) 116, it was held therein that those casual labourers who have been working in Group 'C' category for 5 years, should be screened in category 'C' and regularised. He has, thus, prayed that applicants should be regularised in Group 'C'.

3. O.A. is opposed by the respondents, who have submitted that it was decided by the Govt. of India to convert 587 kms. long Samastipur-Barabanki Metergauge railway line into broadguage railway line in 1972, it was in order to complete the above project, huge number of casual labourers in different categories were engaged in between 1972 to 1982 including applicants. They have submitted that applicants were initially engaged as Casual Mate in Group 'D' in the pay-scale of Rs.225-308/-, which was converted in Group 'C' in IVth Pay Commission of 1986 and the scale was changed from Rs.225-308/- to Rs.950-1500/-. For the regularisation of Mate and Keyman working in Construction organisation, a proposal was sent to the Railway Board for regularisation of their services in Group 'C', but the Railway Board vide their letter dated 12.12.1996 instructed N.E.R. administration to regularise them in Group 'D' and accordingly applicants have been regularised in Group 'D' vide order dated 31.12.1997, but they have been allowed to work on the same post and scale without any financial loss. They have further explained



that applicants had been regularised in Group 'D' (Gangman) as Group 'C' post can be given by way of promotion only and at present not by way of regularisation. However, applicants are working as P.W. Mistry in the scale of Rs.1400-2300/- on adhoc basis. Counsel for the respondents further submitted that this case is fully covered by the Full Bench judgment in the case of Aslam Khan vs. U.O.I.& Ors reported in ATFBJ 1997-2001 157 as well as in the case of Moti Lal decided by Hon'ble Supreme Court reported in 1996 SCC (L&S) 613.

4. I have heard both the counsel and perused the pleadings as well.

5. This case does not really require much deliberation as the issue has already been decided by Full Bench of the Tribunal in the case of Aslam Khan (supra). The question referred before the Full Bench in the case of Aslam Khan was as under :

"Whether the person directly engaged on Group 'C' post (Promotional) post) as casual basis and subsequently acquired temporary status would be entitled to be regularised on Group 'C' post directly or whether such person requires to be regularised in the feeding cadre in Group 'D' post by providing pay protection of Group 'C' post."

After discussing the entire history with regard to casual labour and various rules on the subject, Full Bench decided the question as follows:

"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 drew in the Group C post, will however be liable to protected."

6. Thus, it is settled by now that even if a person was directly engaged as Group 'C' post (promotional) and was even granted temporary status in Group 'C', he would still not be entitled to be regularised on Group -C post directly, but would be liable to be regularised in the feeder cadre of Group 'D' only, of course his pay which he drew in Group-C shall be protected. In the instant case, respondents have

stated in the impugned order itself that applicants would be allowed to work on adhoc basis in the same post of Group -C till they are regularised in Group 'C' post as per law. They have further made it clear in the Counter that the applicants are infact allowed to work as P.W. Mistry on adhoc basis in the scale of Rs.4000-6000/-, therefore this is very much in confirmity with the law laid down by the Full Bench. Even in the case of Moti Lal (supra) decided by Hon'ble Supreme Court, it was held as under :

"Appointment-Railways-Direct appointment as mate in class III-permissibility-in view of relevant rules and administrative instructions such appointment, held impermissible-hence, persons appointed directly as casual mates although continued as such for a considerable period and thereby acquiring temporary status held, not ipso facto entitled to regularisation ---."

7. that perusal of the above judgments clearly show this issue is no longer ~~sub~~ ^{res-integre}. Since the case is fully covered as mentioned above, I find no irregularity in the orders passed by the respondents. O.A. is accordingly dismissed with no order as to costs.


MEMBER(J)

GIRISH/-