

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH (2)

ALLAHABAD.

Dated: Allahabad, the 4th day of January, 2001.

Coram: Hon'ble Mr. Justice R. R. K. Trivedi, VC

Hon'ble Mr. S. Dayal, A.M.

Original Application No. 1456 of 2000

Lakhbir Singh,
s/o Sri Moola Singh,
r/o 973-B, Janmashtami Railway Colony,
G. T. Road, Kanpur Nagar.

..... Applicant

(By Advocate Sri B.N. Singh)

Versus

1. Union of India, through the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. Divisional Rail Manager,
Northern Railway,
Allahabad Division,
Allahabad.
3. Chief Administrative Officer (Construction),
Northern Railway,
Headquarter Office,
Kashmir Gate, Delhi.

..... Respondents

O R D E R (Open Court)

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

By this O. A., the applicant has prayed for the following reliefs:-

(i) issue order or direction to the Respondents to regularise the services of the applicant on the post of Motor vehicle Driver Grade-II, on which he has been working since the last 16 years, straightway without taking any written examination or any interview;

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(ii) issue order or direction to regularise services of the applicant with retrospective effect or any other date, which this Hon'ble Court may deem fit and proper.

2. Before filing this petition, the applicant had filed O.A. No.322 of 1997, claiming 5 reliefs.

The relief (d) was to the following effect:-

(d) to direct the respondents to regularise the services of the applicant as Motor Vehicle Driver in the scale of Rs.950-1500/- from the date of passing the requisite trade test, medical test and continuous working from 15th March, 1999.

This Tribunal after hearing the parties gave the following directions, with regard to the reliefs claimed by the applicant:-

"18. In the light of the discussion as above, we allow the application, quashing the impugned orders dated 30-11-1996, 1.1.1997/16.1.1997 with the direction that the applicant shall be allowed to be continue as vehicle driver in the Construction Division with the stipulation as brought out in para 11 above. The applicant shall be also considered for regularisation as vehicle Driver against 25% vacancies reserved for the departmental promotion as indicated above in para 16 above. No order as to costs."

3. Thus, the claim of regularisation of the applicant was confined to a promotional chance against 25% vacancies reserved for departmental promotion from Group 'D' to Group 'C' posts. In pursuance of the

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aforesaid order of this Tribunal dated 21st November, 1997, the applicant was considered for promotion, but he failed in the written test. He filed Contempt Petition, registered as Civil Contempt Petition No.81 of 1998, which was decided finally on 29th September, 2000. The applicant was regularised as Electrical Khalasi on 14th May, 1997. Full Bench of Jaipur Bench of this Tribunal in the case of Aslam Khan Vs. Union of India in OA No.57 of 1996 has already held in the judgement dated 30.10.2000 that a person directly engaged on Group 'C' posts (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' posts only. His pay, which he drew in the Group 'C' post will, however, be liable to be protected. Thus, the claim of the applicant for regularisation on Group 'C' post directly cannot be accepted, in view of the aforesaid Full Bench judgment and also in view of the earlier judgment of this Tribunal dated 7.11.97, which operates as res judicata against the applicant. Sri B.N. Singh also submitted that earlier judgment will not operate as res judicata, as the cause of action for the present O.A. is entirely different and has arisen to the applicant after he ^{not} ~~has~~ been selected for promotion and has been declared failed in the written test in 1998. The second submission of the learned counsel is that the question of regularisation was not finally considered and decided

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by the earlier Division Bench. However, we do not find any force in these submissions. Even such question, which could be or ought to have been raised in the earlier O.A. if not raised, shall be barred by constructive res judicata. The earlier Division Bench considered, in detail, all ~~the~~ aspects of the matter in respect of the case applicable to the applicant and then granted a particular relief. The applicant now cannot file any other O.A. for the same relief with new grounds.

4. The application has no merit and is rejected.

A.M.

V.C.

Nath/