

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 01st day of July, 2003.

Original Application No. 1367 of 2002.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.  
Hon'ble Mr. D.R. Tewari, Member- A.

Krishna Chandra Mishra S/o Sri Ram Narain Mishra  
R/o House No. 300, Rajrooppur, Distt. Allahabad.  
Presently posted as E & R.C, D.R.M. Office, Allahabad.

.....Applicant

Counsel for the applicant :- Sri Amit Saxena  
Sri S.K. Mishra

V E R S U S

1. Union of India through its Secretary,  
M/o Railways, Rail Bhawan, New Delhi.
2. General Manager (P), Northern Railway,  
Baroda House New Delhi.
3. Divisional Railway Manager, Northern Railway,  
New Delhi.
4. Divisional Railway Manager, Northern Railway,  
Allahabad.
5. Senior Divisional Commercial Manager,  
Northern Railway, Allahabad.
6. Senior Divisional Personal Officer,  
Northern Railway, Allahabad.

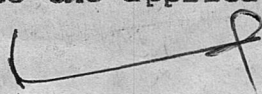
.....Respondents

Counsel for the respondents :- Sri Avnish Tripathi

O R D E R (Oral)

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

By this O.A filed under section 19 of Administrative  
Tribunals Act, 1985, the applicant has prayed for direction  
to respondents to comply with the order dated 18.02.2002 in  
toto and give all benefits to the applicant arising out of



the aforesaid order including seniority w.e.f 01.05.1986.

2. The undisputed facts of the case are that the applicant was appointed as Coaching Clerk in January, 1982. He actually joined as Coaching Clerk in Delhi Division on 28.04.1982 in the scale of Rs. 260-400. However, the services of the applicant <sup>was</sup> utilised as Enquiry cum Reservation Clerk (E&RC) by Delhi Division from 01.08.1982 to 01.05.1986 purely on adhoc basis. Railway Board by circular order dated 07.05.1985 gave following direction to all the divisionas :-

"It has been decided by the competent authority that all the Enquiry cum Reservation Clerks in grade of Rs. 330-560 who are continuously officiating as such on adhoc basis and have completed 3 years service on 30.04.1985 may please be regularised as Enquiry cum Reservation Clerk grade Rs. 330-560 (RS) provided that there is nothing otherwise objectionable against them which may debar them from such regularisation. The names of such employees, who are regularised, together with their service particulars and seniority position on the division may please be advised to this office."

3. The admitted position was that the applicant had<sup>a</sup> served on adhoc basis as E & R.C w.e.f 01.08.1982 to 01.05.1986 and he was entitled for the benefits of the order quoted above. However, he was denied the benefit<sup>s</sup>.<sup>u</sup> Consequently he approached this Tribunal and filed O.A No. 449/2001 which was disposed of finally on 24.04.2001 with direction to respondents to decide the representation of the applicant dated 19.09.2001 within three months from the date of receipt of a copy of the order. In pursuance of the order of this Tribunal, D.R.M, New Delhi passed the order dated 18.02.2002 (Annexure-1) and accepted the claim of the applicant. The relevant part of the order is being reproduced below :-

".....Consequently the representation of Shri Krishna Chander was examined in detail and after verifying the

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relevant record his version was found correct that he had continuously worked as E & R.C for more than three years i.e. from 01.08.1982 to 01.05.1986. The competent authority have given post-facto approval for regularisation of Sri Krishna Chander as E & R.C Gr. Rs. 330-560 (RS) w.e.f 01.05.1986 in Delhi Division and also to the payment of arrears of officiating allowance for the period from 01.08.1982 to 01.05.1986. Accordingly, his pay in Gr. Rs. 330-560 (RS) w.e.f 01.08.1982 is fixed as under :-

1. Pay drawn as on 01.08.1982 in Gr.Rs.260-430 = 200/-
2. Pay drawn as on 01.08.1982 in Gr.Rs.330-560 = 330/-
3. Pay raised on 01.08.1983 in Gr. Rs. 330-560 = 340/-
4. Pay raised on 01.08.1984 in Gr. Rs. 330-560 = 350/-
5. Pay raised on 01.08.1985 in Gr.Rs. 330-560 = 360/-
6. Pay fixed as on 01.01.1986 in Gr. Rs.1200-2040=1260/-

He was transferred to Murad Nagar as Coaching Clerk vide this office letter No. 729-F/24/8137(R-2) dated 27.05.1986 and subsequently transferred to Allahabad division on his own request on 05/87."

4. The respondent No. 4 however, passed another order dated 02.07.2002. The effect of this order is that respondent No. 4 has accepted the applicant's regularisation as E & R.C only in Delhi Division for the period 01.08.1982 to 01.05.1986 and the applicant has been denied the benefit of the regularisation for the period he was transferred from Delhi division to Allahabad division, aggrieved by which the applicant has again approached this Tribunal and prayed for the aforesaid relief.

5. Sri A. Tripathi, learned counsel for the respondents prayed that he may be given time to enquire from the authorities at Delhi even whether applicant has been granted benefit of the order dated 18.02.2002. However, we are not inclined to postpone the matter as the facts of the case are very clear from the record. CA and RA have already been exchanged

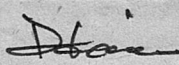



between the parties and the matter is being disposed of finally.

6. From the perusal of the order dated 07.05.1985, it is clear that the regularisation contemplated in the order was of permanent nature and it was not confined to the period during which the person concerned working as E & R.C. There is nothing in the order that after expiry of the period they <sup>were</sup> ~~are~~ not entitled for the regularisation provided under order dated 07.05.1985. The approach on the part of the respondent No.4 was thus illegal and he has wrongly treated the applicant as Coaching Clerk after 09.05.1986. The applicant was to be treated as E & R.C under order dated 18.02.2002 including the period after which he was transferred from Delhi division to Allahabad division. In that capacity, if he transferred on his own request, he could be entitled for bottom seniority. The respondent No. 4 committed serious mistake in implementing the order dated 18.02.2002. It may be noted at this place that the order dated 18.02.2002 was passed in pursuance of order of this Tribunal and it has become final and it was not challenged by ~~the~~ any authority. In the facts and circumstances, the applicant is entitled for reliefs.

7. For the reasons stated above the O.A is allowed. The respondents are directed to treat the applicant as E & R.C w.e.f 01.05.1986 and <sup>pay</sup> him the difference of pay accordingly. He will also be entitled for seniority as E & R.C subject to his transfer from Delhi to Allahabad division on his own request. The order dated 02.07.2002 passed by the respondent No. 4 shall stand <sup>modified</sup> accordingly. This order shall be given effect within a period of four months from the date of communication of this order including for payment of benefits under the order.

There will be no order as to costs.

  
Member- A.

  
Vice-Chairman.

/Anand/