

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

D.A.No. 206 of 2002

Dated : This the 25th day of February, 2004

HON'BLE MR. JUSTICE S.R.SINGH, V.C.
HON'BLE MR. D.R. TIWARI, A.M.

Ataur Rahman Khan S/o Sri Fazlur Rahman,
r/o 379, Khairati Khan Masjid Bibi Sahiba
near Dergah A-III, Shah Miyan, Farrukhabad.

...Applicant.

By Advocate : Shri Saumitra Singh

VERSUS

1. Union of India, through the General Manager, N.E.R., Gorakhpur.
2. General Manager, North Eastern Railway, Gorakhpur.
3. General Manager (Personnel), North Eastern Railway, Gorakhpur.
4. Divisional Railway Manager(Personnel), North Eastern Railway, Izatnagar, Distt. Bareilly.
5. Mr. Roop Chandra son of Bharat Singh, presently posted as Head Clerk under senior Section Engineer, Singal, North Eastern Railway, Mathura Cantt. District Mathura.
6. Mr. Manohar Lal s/o Shanti Lal, presently posted as Head Clerk.
7. Mr. Shailendra Kumar Singh son of Pratap Bahadur Singh presently posted as Head Clerk.
8. Rama Kant son of Sumer Ram presently posted as Senior Clerk, opposite parties No. 7 to 9 are working under Senior Divisional Singal and Telecommunication Engineer, North Eastern Railway, Izatnagar, District Bareilly.

....Respondents.

By Advocate :- S/Shri D.C.Saxena and K.P.Singh

ORDER (Oral)

By Hon'ble Mr. Justice S.R.Singh, V.C.

The applicant was appointed as a junior Clerk on

ad hoc basis in the pay scale of Rs. 260-400 vide order dated 21.7.1982. The appointment was admittedly made on the instruction of the Ministry of Railway. The note ^{21.7.1982} appended to appointment letter dated ~~21.7.1992~~ (Annexure-3), however, visualised that the appointment was ad-hoc in nature and the continuity of the applicant in service would depend on his passing examination conducted by the Railway Service Commission (now Railway Recruitment Board) for which the applicant would be given two chances. It is not disputed that no examination was held by the Railway Service Commission, despite repeated representations by the applicant. The applicant ultimately requested the respondents to enable him to appear in the departmental examination for the purpose of regularisation of his initial appointment in Group 'C'. The request was turned down vide letter dated 16.7.1990 on the ground that there was no statutory provision to enable the applicant to appear in the departmental examination for regularisation of his initial appointment in Group 'C'. However, vide D.U. letter dated 28.9.1993 referred in the letter dated 16/20.12.1993 Annexure-I to the Suppl. Affidavit, it was provided that the services of the applicant be regularised by departmental examination. By letter dated 16/20.12.1993 the direction contained in the letter dated 28.9.1993 was required to be complied with "within 10 days positively". The departmental examination, however, could be held on 23.2.1996, for no fault of the applicant, who was declared successful in the departmental examination and accordingly his services came to be regularised vide office order dated 29.2.1996 (Annexure-7).

पूर्वोत्तर रेलवे

कायालिय जाकेश सं० 476

"इस कायालिय के समर्त्थक अधिसूचना दिनांक 22-1-96 के अनुल्प दिनांक 23-2-96 को कराई बई लिखित/मौखिक एवं टाइपिंग परीक्षा में सफल होने तथा नामिता न०रेओ०५५/इज्जतनगर द्वारा दिनांक 26-2-96 को अनुबोदन उपरांत श्री अताउर रहमान खाँ, तदर्थि लिपिक वेतनमान ९५०-१५०० अधीन ससिद्धूई/फलेव्हबढ़ को नियमित किया जाता है।

यह प्रसिद्धूई/इज्जतनगर द्वारा अनुबोदित है।

कृते न०रेओ०५५का/इज्जतनगर

2. The applicant staked his claim for reckoning his ad-hoc services towards seniority etc. By letter dated 24.9.2001(Annexure-I), the request was turned down on the ground that the applicant's services were regularised by letter dated 29.2.1996. The question that arises for consideration is whether the applicant was entitled to count his ad-hoc services for the purpose of determination of seniority and other service benefits. Shri S.Singh, learned counsel for the applicant has invited our attention to Railway Board's letter dated 14.4.1980(Annexure-10) according to which certain classes of ad hoc appointee including those appointees as per order of Ministry of Railways during 1974-1977 were ordered to be regularised "w.e.f. the date on which they are originally appointed." It has also been submitted by the counsel that for no fault of the applicant the departmental examination was delayed and, in any case, submitted the learned counsel, the services of the applicant having been regularised he became entitled to count his ad-hoc services for the purpose of determination of his seniority and other service benefits. We find substance in the submission made by the learned counsel. Once the applicant was regularised vide office order no. 476 dated 29.2.1996, he became entitled to count the service rendered by him on ad-hoc basis in the absence of any statutory

prohibition. No such statutory inhibition was brought to our notice and, therefore, we are of the view that the applicant is entitled to count ad-hoc services toward seniority and other service benefits.

3. The D.A. accordingly succeeds and is allowed. The order dated 24.9.2001 is set aside. The respondents are directed to refix the applicant's seniority and grant him all the benefits of ad-hoc services rendered by him w.e.f. the date of his initial appointment. This exercise may be completed within a period of three months from the date of receipt a copy of this order.

4. There will be no order as to costs.

[Signature]
Member A

[Signature]
Vice-Chairman

Brijesh/-