

Reserved on 01.03.2012

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

(THIS THE 6<sup>TH</sup> DAY OF MARCH, 2012)

PRESENT:

HON'BLE MR. JUSTICE S.C. SHARMA, MEMBER-J  
HON'BLE MS. JAYATI CHANDRA, MEMBER-A

ORIGINAL APPLICATION NO. 1037 OF 2006

(U/s, 19 Administrative Tribunal Act.1985)

Amarjeet Singh son of Late Basant Singh working as Typist (Adhoc) N.E. Rly., resident of Quarter No. 246-B, New Model Rly, Colony, Izzatnagar, Distt. Bareilly.

..... Applicant

By Advocate: Shri V. Budhwar.

Versus

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Izzat Nagar Division, Bareilly.
3. Senior Divisional Personnel Officer, North Eastern Railway, Izzat Nagar, Division, Bareilly.

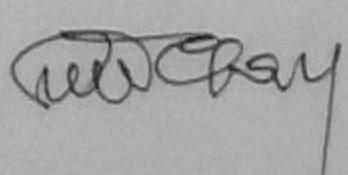
..... Respondents

By Advocate: Shri K.P. Singh.

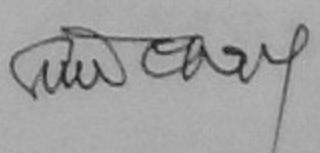
ORDER

(DELIVERED BY:- HON'BLE MR. JUSTICE S.C. SHARMA, MEMBER-J)

1. The instant O.A. has been instituted for issuing a direction to the respondents to consider the case of the applicant for regularization on the post of Typist with all consequential benefits in accordance with the judgment and order passed in O.A. No. 1026/95 alongwith O.A. No. 999/95 decided on 10.5.2003 and further directing the respondents not to take any adverse action against the applicant while reverting the applicant from the post of Typist and grant all consequential benefits in view of the above judgments.

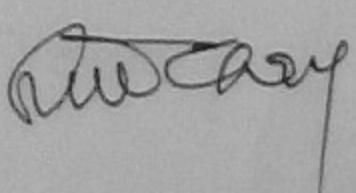


2. Pleadings of the parties may be summarized as follows. It has been held by the applicant that he was selected and appointed on the post of Khalasi in the pay scale of Rs. 196-232 on 1.9.82 in the office of Assistant Engineer Sleeper Concrete Plant Collector Buxganj in Izatnagar Division. A notification was issued by the respondents on 31.7.89 advertising various posts of Typists by filling them up on adhoc basis in the scale of Rs. 950-1500. That the applicant was fully qualified as he had obtained training in typing and was qualified in all respects having minimum eligibility qualification. He participated in the selection and after qualifying written test and viva voce, adhoc promotion was given to the applicant on the post of Typist in the above scale of pay on 6.10.89. The applicant was posted as Typist under Divisional Railway Engineer-I vide order dated 20.12.1989. An order was also passed by the respondents on 8.11.1991 providing that the applicant, on the post of Typist be regularized w.e.f. 20.12.89. A meeting was also convened on 8/9 February, 93 and some instructions were provided for regularization of adhoc typist. A vacancy fell vacant on 6<sup>th</sup> November, 95 on the post held by Ram Prakash as he had left the job and there was clear vacancy available to the applicant and placement was granted to the applicant. For this purpose, O.A. 1060/95 was filed before the Tribunal, but the O.A. was dismissed on 6.9.2002 on the ground that the post fell vacant is to be filled by direct recruitment. The applicant is said to be repatriated to the post of Khalasi, whereas the regularization of the applicant is to be



considered as he is possessing all the requisite qualification and working since 1989. The service rendered by the applicant was appreciated by the superiors. Awards were also given to him and direction was also given by the Tribunal for considering the regularization, but the respondents are not considering the case of the applicant for regularization, hence the O.A.

3. The respondents contested the case and filed the Counter reply and denied from the allegations made in the O.A. It has been admitted that the applicant, an ex casual labourer was appointed on completing 120 days regular service, and pay scale of Khalasi was also allowed to him w.e.f. 1.9.82. It has also been admitted that in the year 1989 Division was facing acute shortage of Typists. 5 posts of Typists were vacant against direct recruitment quota and hence notification was issued in order to fill up these posts on adhoc basis from class IV staff having qualification of Matriculation and knowledge of typing with three years continuous service. The applicant was regularized as Khalasi on 30.8.88 after passing screening test. The applicant was also selected for the post of Typist against notification and was posted as Adhoc Typist on 20.12.1989 and since then the applicant had been working as adhoc Typist. On record, Diploma in typing is not available of the applicant. However, the applicant had undergone typing training w.e.f. 25.6.1979 to 27.2.1980 from Shukla Commercial Institute, Krishnanagar, Bareilly. As the applicant fulfilled requisite qualification for appearing in the test, hence the applicant was also called and selected



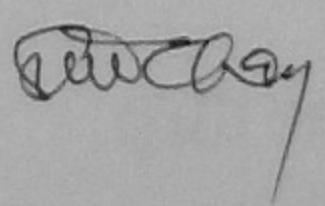
and was given promotion. But the services of the applicant cannot be regularized as Typist. Since the cadre of Typist is diminishing and the sanction in the intake grade has been abolished, hence it was not found feasible to regularize these typists. Shri Ram Prakash was transferred to Delhi Division of Northern Railway. Request was made by the applicant for regularization against the post vacated by Shri Ram Prakash, but the vacancy arose on transfer of Ram Prakash and it was direct recruitment quota vacancy hence the request of the applicant was not feasible as per rules. Earlier O.A. was also filed by the applicant and the same was dismissed and the applicant could not be accommodated on these posts which were meant for direct recruitment quota. It has also been admitted that the applicant had been working as adhoc Typist and there is no provision for reversion, hence this contention is wrong. But the service of the applicant as Adhoc Typist, cannot be regularized. The posts against direct recruitment quota are to be filled up by Railway Recruitment Board (R.R.B.). It was specifically mentioned that the adhoc arrangement is purely temporary measure and the applicant can be reverted to parent cadre as and when required. The condition for adhoc arrangement was notified before making adhoc arrangement and the applicant was aware about the condition hence the applicant agitated otherwise. The O.A. lacks merit and is liable to be dismissed.

4. In response to the Counter reply of the respondents, the applicant filed R.A. and reiterated the facts which have been alleged in the O.A. and what has been alleged in the C.A. has been denied.

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5. We have heard Shri Vikas Budhwar, Advocate for the applicant and Shri K.P. Singh, Advocate for the respondents and perused the entire facts of the case.

6. It is admitted fact that the applicant was appointed as Khalasi on 1.9.82 and he was also regularized as such. It is also admitted fact that a notification was issued by the respondents on 31.7.89 and vide this notification various posts of Typists were advertised to be filled up on adhoc basis in the pay scale of Rs. 950-1500 and undisputedly, the applicant participated in the selection and as he was declared successful in the written as well as viva voce, hence he was posted on the post of Typist in the pay scale of Rs. 950-1500 vide order dated 6.10.89. The applicant had been working as Typist in DRM Engineer I vide letter dated 20<sup>th</sup> December, 1989, but it has been alleged by the respondents that it was specifically alleged in the notification that 5 posts of Typists were advertised by notification are purely adhoc and these are to be filled up from eligible candidates of class IV of various departments of the Railways. It was also provided in the notification that after sanction of the post of Typist from the Railway Board these adhoc appointments shall be reverted. And it has also been alleged that while giving appointment to the applicant on 20.12.89 it was specifically mentioned in posting order that the promotion is purely on adhoc basis. That he will not be entitled to any benefits on the basis of holding this post. These promotions have been made against direct recruitment quota, hence when the candidates will come from the Railway Recruitment



Board, then these candidates and the applicants shall be reverted back. There can be no denial of this fact from the respondents. We have also perused Annexure-4. It is regarding regularization on adhoc Typist in Izzatnagar Division and it is dated 8<sup>th</sup> November, 1991. Reliance has been placed on the following para of this letter

*“Since the division was facing an acute shortage of typists, it was decided to make adhoc arrangements from the class IV staff of all departments with Qualification as Matriculates and with knowledge of typing. Accordingly a panel of 5 typists named below was formed and all the 5 were promoted in Dec., '89 & Jan., '90 as per dates shown against each.”*

Hence, from the perusal of the above, it is evident that the matter of regularization of the employees was to be considered by the respondents. Reliance has also been placed by the learned counsel for the applicant on Annexure -8 in respect of note of Shri S.N. Pandey, G.M., N.E. dated 4.2.88 and the relevant para No. 8.3 *“Acute shortage is being faced in the category of Stenographers. Approval to Division's proposal for regularizing adhoc Typists working more than 3 years may be expedited so that process initiated for filling up promotional quota (3 posts) may be finalized in the division.”*

7. On the basis of above documents, learned counsel for the applicant argued that the respondents passed orders in connection with regularization of the applicant. Admittedly, the applicant had been working on the post of Typist w.e.f. 20<sup>th</sup> December, 1989. It has been alleged by the respondents' Advocate that the post of

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Typist is a diminishing cadre and hence it cannot be regularized. It has also been alleged that these posts are to be filled by direct recruitment quota and hence the applicant cannot be regularized. It will be relevant to state that earlier also Original applications were filed on behalf of the applicant and others and in the present O.A. also parity has been claimed with the order passed in the above mentioned O.As on 10.9.2003. Annexure-10 is the copy of the order passed by this Tribunal in O.A. 999/95 and 1026/95. But it is also a fact that the O.A. was dismissed and the relief for regularization of the applicant was not granted, but it was provided that the case of the applicant shall be considered for regularization. The operative portion is reproduced as follows:

*"For the reasons mentioned above as the applicants have been continuing on adhoc basis as clerks for more than 10 years, they are entitled for a direction to the respondents to consider them for regularization in terms of railway board's letter mentioned above. The applicants were selected for adhoc appointment after written examination and viva-voce and they had satisfied the conditions for grant of such benefits. Both the O.As. are disposed of finally with the direction respondents Divisional Railway Manger (Personnel), N.E. Railway, Izzatnagar, Bariilly to consider the regularization of the applicants No.02 and 04 in O.A. 1026/95 and three applicants of O.A. No.999/95. The exercise of consideration for regularization shall be considered within four months from the date of communication of this order."*

8. We have considered the order passed in the above mentioned O.A and we consider it just and appropriate to direct the respondents

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to consider the name of the applicant for regularization as per rules.

In the earlier O.A. direction was given for consideration of the case as per Railway Board's circular. It is also a fact that in the case of the applicant he is continuing on the post of Typist w.e.f. 20.12.89 continuously without any break for the last more than 23 years, hence it will be just and appropriate to consider the case of the applicant for regularization as per rules. Reliance has been placed by the applicant on the letters issued by the respondents for considering the case for regularization of the applicant.

9. Considering the above mentioned facts, it will be just and appropriate to allow the O.A. by giving direction to the respondents to consider the case of the applicant for regularization as the applicant had been working on the post of Typist w.e.f. 20.12.89 and for the last more than 20 years applicant had been working on the post of Typist. It has not been alleged by the respondents that the work and conduct of the applicant was not satisfactory. Nothing has been alleged against the work and conduct of the applicant. Only it has been alleged that as the posting of the applicant was made purely on adhoc basis as well as he is not entitled to be regularized. Posts are to be filled up against direct recruitment quota. However, there are certain orders of the respondents in which it has been discussed that the matter for regularization of these Typists shall be considered and there was acute shortage of Typists. Under these circumstances, it will be just and appropriate to direct the respondents to consider the case of the applicant for regularization.

*ANCR*

10. The O.A. is allowed. The respondents are directed to consider the case of the applicant for regularization as per railway rules. The respondents shall consider the case of the applicant for regularization within a period of six months from the date <sup>when the</sup> certified copy of this order is produced before the respondents. The applicant shall produce the certified copy of the order before the respondents at the earliest.

*J. Chandra*

Member (A)

*M. Chandra Sekar*

Member (J)

s.a