

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dt.07.01.2003

Heard Mr. P. Jena, learned Counsel appearing for the Applicant and Mr. C. R. Mishra, learned Counsel appearing for the Railways.

2. The Applicant served the Railways since 1972 and, in the said premises, he has claimed for his regularisation of his services (right from the year 1972) in this Original Application under Section-19 of the Administrative Tribunals' Act, 1985.

3. In the counter, however, the Respondents have disclosed that the Applicant can only be regularised in Railways services with effect from 01.04.1988 (as against the post of "Mate") and that his case of regularisation (as "Permanent Way Mistry") can only be considered (with effect from 20.12.1990 or from such other subsequent date) after he appears in the trade test for the post of "Permanent Way Mistry". Para-09 of the Counter of the Railways is extracted below for a ready reference:-

"That in reply to the averments in Para-4 (xv), it is humbly submitted that the Applicant had been working as Mate with effect from 24.01.1972 but as no regular post of Permanent Way Mate is available against sanctioned cadre, this Applicant can only be regularised against any other post of Mate with effect from 01.04.1988 against operation of a down graded post of higher grade or other category of a Mate. The Applicant's regularisation as Permanent Way Mistry with effect from 20.12.1990 or from any such other date will be considered after he appears in the Trade Test for the post of Permanent Way Mistry, as and when called for."

4. Since the Railways have agreed to provide regularisation to the Applicant with effect from 01.04.1988 as a "Mate" and have promised to consider his case (for regularisation in the post of "Permanent Way Mistry" with effect from 20.12.1990) provided he clears the departmental Trade Test; there remains no further issues to be answered in this Original Application.

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5. In the aforesaid premises, this Original Application stands disposed-of with direction to the Respondents to regularise the services of Applicant (as a "Mate") with effect from 01.04.1988 by end of March, 2003 and to give due consideration to the case of the Applicant (to bring him to regular establishment of Permanent Way Mistry with effect from 20.12.1990/or from such other date subsequent thereto) provided the Applicant clears the Departmental Trade Test. The parties are to bear their own costs.

Send copies of this order to all the parties (the Applicant and the Respondents) and free copies of this order be handed over to Mr. P. Jena, learned Counsel appearing for the Applicant and Mr. C. R. Mishra, learned Counsel appearing for the Railways.

7/1/03
(M. R. MOHANTY)
MEMBER (JUDICIAL)

Copy of order
of 7/1/03 issued
to both parties
by Posts. The same
copy signed to
the Counsel by
side.

DRB
7/1/03
S.O.

M
7/1/03