

Central Administrative Tribunal
Calcutta Bench

OA No.684/96

Calcutta this the 24th day of September, 2002.

Hon'ble Mr. S. Biswas, Member (Admnv)
Hon'ble Mr. Shanker Raju, Member (J)

Shri Baleshwar Ram & 460 others -Applicants
(As shown in the memo of parties)

(By Advocate Shri P.C. Das)

-Versus-

Union of India & Others -Respondents

(By Advocate Shri R.K. De)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

Heard the parties. Applicants, 461 in number, have sought their enlistment as substitutes in the appropriate list of substitutes on acquirement of temporary status after working continuously for 120 days and further grant of participation in the screening and empanelment against regular posts.

2. The learned counsel for the applicants states that the applicants have served the respondents as substitutes in the regular pay scale of post from time to time under the Station Supdt. Sealdiah under Eastern Railway under the administrative control of DRM and have worked continuously on different posts for more than 120 days and have accordingly acquired temporary status as per the extant rules.

3. It is stated that the copies of the service certificates with the remarks of their status and other service certificates apparently prove their working as alleofged and in view of Railway circular dated 18.12.70 they are entitled for the relief prayed for.

It is stated that non-empanelment of the applicants whereas the other similarly circumstance are still being engaged amounts to hostile discrimination, violative of Articles 14 and 16 of the Constitution of India. It is stated that despite representations the same have not been responded to.

4. It is further contended that as per the circular dated 20.11.91 post in Group 'D' vacancies have been filled up by casual labours as substitutes with the direction to zonal Railways but the applicants have not been called for screening, which deprived them their livelihood as provided under Article 309-A of the Constitution of India.

5. Learned counsel placed reliance on a decision of the coordinate Bench in OA-664/95 Sandeep Mondal and Ors. v. Eastern Railway, decided on 26.11.2001 to contend that similarly circumstance substitutes on approaching the Tribunal the delay was condoned and directions have been issued to the respondents to verify their documents and consider their claim by passing a speaking order. He claims extension of the benefit of the aforesaid order.

6. On the other hand, respondents' counsel vehemently denied the contentions and stated that as per IREM Vol. I para 5 (xii) substitute is defined as working on an identified post with a definite pay scale and as no appointment order to engage them as substitutes has been issued the applicants' proof of working is not genuine. It is also stated that as the screening was done in 1978, 1981 and 1990 and if the applicants had

really worked in Sialdah Division their names would have been figured in those lists. It is further stated that the case is barred by delay and laches and cannot be countenanced in view of the provisions of Section 21 of the Administrative Tribunals Act, 1985. It is denied that applicants were engaged in any capacity in the Railways and the documents are fabricated.

7. We have carefully considered the rival contentions of the parties and perused the material on record. In the light of the decision of the coordinate Bench where claim of the similarly circumstance was allowed and as the applicants are claiming benefit of the judgment the delay would not be an impediment in view of the Constitutional Bench decision of the Apex Court in K.C. Sharma v. Union of India, 1998 SCC (L&S) 226. We also find that the applicants had preferred representations to the respondents annexed with the OA but the same have not been responded to. From the perusal of the documents annexed it is found that the certificates have been issued by the Station Superintendent certifying the working period of the applicants as substitutes have been issued and the service cards also indicate the same.

8. However, without going into the rival merits of the case, ends of justice would be duly met, as the case of applicants in all four covered by the decision of the Tribunal in Sandeep Mondal's case (supra) to direct the respondents to verify the documents of the applicants and to consider their claims as contained in their representations within three months from the date of receipt of a copy of this order. If the documents

of the applicants are found genuine they shall be accorded all the consequential benefits as prayed for. However, if the claims are found otherwise, the orders passed by the respondents shall not bestow upon applicants a cause of action to approach this court again. No costs.

S. Raju

(Shanker Raju)
Member (J)

S. Biswas

(S. Biswas)
Member (A)

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