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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH: JODHPUR.

O.A. No.73/95

Date of Order: 4.9.1998

Raj Kumar s/o Shri Brij Nandan Prasad, working as Typist under Dy. Chief Engineer (Construction), Northern Railway, Bikaner, r/o c/o Shri C.R.Bhati, Near R.P.F. Colony, Rani Bazar, Bikaner.

... Applicant

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Administrative Officer (Construction), Northern Railway, Kashmere Gate, Delhi.
3. Dy. Chief Engineer (Construction), Northern Railway, 30, Civil Line, Near Dhola Maru, Bikaner.
4. Divisional Railway Manager, Northern Railway, Lucknow.

... Respondents

Mr. Y.K. Sharma, Counsel for the applicant.

Mr. R.K. Soni, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

Per Hon'ble Mr. Gopal Singh

Applicant, Raj Kumar, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to regularise the services of the applicant as Typist in the grade 950-1500 with all consequential benefits.

Gopal Singh

2. Applicant's case is that he was initially engaged as Casual Labour Khalasi on 29.12.1978 and was transferred under Senior Civil Engineer (Construction), Northern Railway, Suratgarh w.e.f. 28.1.1983. That he was granted temporary status w.e.f. 1.1.1984. That the applicant worked as Khalasi from 29.12.1978 to 5.1.1985 and as Storeman from 6.1.1986 to 9.3.1987 and thereafter he was posted as Typist on adhoc basis. That the applicant was subjected to trade test for the post of Typist vide respondents letter dated 4.2.1988 and he was declared successful in that test. That the Headquarters of the applicant was shifted to the Bikaner from 1.6.1989 and since then the applicant has been working as adhoc Typist under Deputy Chief Engineer (Construction), Northern Railway, Bikaner. That Shri Virendra Deo and Prabhu Dayal Soni who were similarly situated persons had filed O.A. No.231/92 and O.A. No.232/92 respectively before this Tribunal for regularisation of their services. Both these applications were allowed by this Tribunal. Review Applications filed by the respondents in these O.As. were dismissed and both the applicants, namely Virendra Deo and Prabhu Dayal Soni, were regularised as Typist. Thereafter, the applicant has also moved the representation for regularisation of his services as Typist, but to no avail. Instead of respondents issued a letter dated 3.2.1995, directing the applicant to appear for screening for the post of group D category. Aggrieved by the respondents' action, this O.A. has been filed.

3. Notices were issued to the respondents and they have filed their reply. It is the contention of the respondents that a Casual Labour is not holder of any of the post unless he is screened and regularised to a group D post and further that

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vacancies for the post of Typist are filled through Railway Recruitment Board, in case of direct recruitment quota, and through promotion from regular eligible group D employees as per selection procedure, and as such the applicant cannot be considered for regularisation on the post of Typist directly.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. Another case of a similar situated person had come up before this Tribunal vide O.A. No.81/96. In that case also the applicant was deployed as ad hoc Typist since 6.1.1984. The said applicant had earlier filed O.A. No.231/92 wherein this Tribunal has observed as under:

"In view of the above, we allow this application to the extent that the applicant shall be treated as ad hoc typist and shall be eligible to appear in the selection test that may be held for promotion to the post of typist and he shall be entitled to regularisation after he passes such test. Parties to bear their own costs.

Instead of regularising the services of the applicant in O.A No.231/92 as Typist, the respondents initiated fresh action to adjudge the suitability of the applicant and that applicant was declared unsuccessful in that test. Consequent thereupon the said applicant was sought to be reverted. While setting aside the order of the reversion in O.A. No.81/96, this Tribunal has observed as under:

"5. In the premises, the O.A. is allowed and disposed of with following observations:-

- (i) The impugned order dated 31.1.1996 (Annexure A) is set aside.
- (ii) Since the applicant had already passed suitability test for the post of Typist, respondents should regularise the services of applicant in the grade of Typist with all consequent benefits within a period of three months from the date of receipt of a copy of this order."

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6. The argument of the respondents that the post of Typist are filled up by direct recruitment through Railway Recruitment Board or by promotion from the eligible group D staff and that the applicant is not holding a regular post of group D. He has to first face screening and then become eligible for consideration for promotion to the post of Typist. In view of the decisions already taken in O.A. No.231/92 and O.A. No.81/96 mentioned above, this argument of the learned counsel for the respondents is not tenable and is, therefore, rejected.

7. We find much force in the application and the same deserves to be allowed on the pattern of O.A. No.231/92 and O.A. No.81/96.

8. The O.A. is accordingly allowed with the direction that since the applicant has already passed the suitability test for the post of Typist, the respondents should regularise the services of the applicant on the post of Typist grade 950-1500 w.e.f. the date he was declared successful in the professional test held on 4.2.1988 with all consequential benefits within a period of three months from the date of issue of this order.

9. Parties are left to bear their own costs.

Gopal Singh  
(Gopal Singh)  
Administrative Member

A.K.Misra  
4/9/98  
(A.K.Misra)  
Judicial Member

Aviator/

RCW  
Saw

RCW  
10/19

Rec'd order  
dt 11.3.98  
which given  
in the court  
Saw  
9/9/98