

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

O.A. Nos. 318/96
&
319/96

Date of Order: 16.10.1998

(1) Nathi Lal s/o Shri Fateh Singh, working as Material Chasing Clerk under Dy. Chief Engineer (Construction), Northern Railway, Bikaner, r/o Q.No.232-A, Railway Colony, Lalgarh, Bikaner.

(2) Purshottam Kumar s/o Shri Balwant Raj, working as a Material Chasing Clerk under Dy. Chief Engineer (Construction), Northern Railway, Bikaner, r/o Q.No.242/B, Double Storied Quarter, Near M Rampura Basti, Lalgarh, Bikaner.

Applicant in O.A. No.318/96

Applicant in O.A. No.319/96

VERSUS.

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. General Manager (P), Northern Railway, Baroda House, New Delhi.
3. Chief Administrative Officer (Const.), Northern Railway, Kashmiri Gate, Delhi.
4. Deputy Chief Engineer (Const.), Northern Railway, Bikaner.
5. Divisional Personnel Officer, Northern Railway, Bikaner. (Respondent in O.A. No.318/96).
6. Divisional Personnel Officer, Northern Railway, Ferozpur (Respondent in O.A. No.319/96).

... Respondents

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

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

Facts in both the applications are same and relief sought is also the same and, therefore, both the applications are disposed of by this common order.

Gopal Singh

2. Both the applicants, Nathi Lal and Purshottam Kumar, have filed these applications under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 13.6.1996 (in respect of Nathi Lal) and impugned order dated 30.11.1995 (in respect of Purshottam Kumar). They have also prayed for issuing a direction to the respondents to regularise their services in terms of Northern Railway Headquarters' order dated 11/15.2.1991.

3. Brief details of both the cases are as under:

(i) Nathi Lal, applicant in O.A. No.318/96, was appointed on 17.2.1979 as Trolleyman, granted temporary status on 1.1.1983, regularised as Gangman on 26.3.1991 and was transferred from Bikaner Division to Construction Organisation on 25.7.1991. The applicant has been promoted as MCC vide letter dated 15.12.1991 (Annex. A/2).

(ii) Purshottam Kumar, applicant in O.A. No.319/96, was initially appointed as Casual Labour on 2.6.1976, was transferred from Ferozpur Division to Bikaner Division in Construction Wing by order dated 6.5.1991 as a Storeman and was promoted as MCC vide letter dated 21.9.1991 (Annex. A/2).

(iii) Both these applicants have sought regularisation on the post of MCC grade 950-1500 (RPS). Both of them had submitted representations in this regard, but the same have been rejected by the respondents vide their letter at Annexure A/2.

4. Notices were issued to the respondents and they have filed their reply. The respondents have contended that the Northern Railway Headquarters' order dated 11/15.2.1991 is not

legals of

applicable to the applicants as they had not completed 3 years of ad hoc service as MCC on the crucial date, i.e., 15.2.1991 and as such they are not eligible for regularisation as MCC.

5. We have heard the learned counsel for the parties and perused the record of the case.

6. Northern Railway Headquarters' order dated 11/15.2.1991 provides for that the MCC who were working on ad hoc basis for more than three years in Construction Organisation will be regularised as such by their respective parent department where they are holding their lien. Admittedly both the applicants had not completed three years of service as ad hoc MCC on 15.2.1991 and as such they are not eligible for regularisation in terms of Northern Railway Headquarters' order dated 11/15.2.1991. The learned counsel for the applicants has brought to our notice another Circular dated 13.2.1997 issued by the Northern Railway Headquarters which provides for regularisation of the MCCs working on ad hoc basis for more than three years. This Circular dated 13.2.1997 is reproduced below:

"Sub: Regularisation of staff working in a particular post for more than three year continuously case of MCCs working under CAO/C, New Delhi.

Ref: Item No. 102/96 of GM PNM with URMU.

The issue of regularisation of MCCs working in construction department on ad hoc basis was discussed in GM/PNM with URMU on 19/20.12.96 wherein it has been decided that group 'D' staff working as MCCs on ad hoc basis in the division as well as in construction department for more than 3 years upto 7/8.5.87 be regularised as Material Clerk on the basis of scrutiny of service record and viva voce test which is to be conducted by the respective division or where they hold

Copy of



their lien. Orders were also issued previously for the same vide this office letter dated 11/15.2.91 (copy enclosed for ready reference).

After the above crucial date 7/8.5.87 the MCCs working for more than three years on ad hoc basis should be regularised against promotion quota vacancies of office clerk alongwith other eligible staff of group 'D' by normal selection process. In this connection, detailed instructions have already been issued vide this office letter dated 31 Dec., 91 which may please be consulted for necessary guidance. A copy of the same is also enclosed."

7. It may be mentioned here that the above cited letter came to be issued by the Northern Railway Headquarters during the pendency of these cases, therefore the applicants can represent afresh to the concerned authorities for considering their cases for regularisation on the post of MCCs etc. in the light of the letter dated 13.2.1997. In these O.As. the applicants cannot be extended the benefit as argued on the basis of letter cited above.

8. The applicants have sought regularisation on the post of MCC in terms of order dated 11/15.2.1991 issued by the Northern Railway Headquarters but the same is not applicable in the instant case looking to the date of working of the applicants as MCCs as mentioned in the O.As. Therefore, the applicants are not entitled to any relief in the instant case and the O.As. deserves to be dismissed.

9. The O.As., therefore, are dismissed with no order as to costs.

Gopal Singh
(Gopal Singh)
Administrative Member

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16/10/1998
(A.K. Misra)
Judicial Member

and given
Xmas/2016

Re: [REDACTED]
[REDACTED]
26/12/16

Part II and III destroyed
in my presence on 20/12/16
under the supervision of
Section Officer [REDACTED] as per
order dated 20/12/16

Section Officer [REDACTED] (Record)