

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

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Date of Decision: 09.12.97

OA 329/96

Lalu Ram, Material Checking Clerk (MCC) in the office of the Dy.Chief Engineer (Construction), Northern Railway, Bikaner.

... Applicant

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Administrative Officer (Construction), Kashmiri Gate, Delhi.
3. The Divisional Railway Manager, Northern Railway, Bikaner.
4. The Divisional Personnel Officer, Northern Railway, Bikaner.
5. The Dy.Chief Engineer (Construction), Northern Railway, Bikaner.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.S.K.Malik

For the Respondents

... Mr.S.S.Vyas, brief holder
for Mr.R.K.Soni

O R D E R

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Lalu Ram, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, mainly seeking a direction to the respondents to regularise his services on the post of MCC/Clk grade Rs.950-1500.

2. The facts giving rise to this application are as follows. The applicant was initially appointed as Gangman w.e.f. 3.10.78 under the Permanent Way Inspector (Construction) at Suratgarh on casual basis. He was granted temporary status w.e.f. 15.11.84 in the grade Rs.775-1025. Thereafter, he was promoted as Storeman w.e.f. 24.9.87 in the pay scale of Rs.800-1150 and posted under the PWI (Construction), Stores, Suratgarh. However, the respondents took the work of MCC from him since the date of his promotion as Storeman w.e.f. 24.9.87. The applicant has been discharging the duties of MCC till date. The work of MCC was also taken by respondent No.5 after the posting of the applicant at Bikaner under him. Respondent No.1 vide a letter, at Annexure A-2, dated 11/15.2.91, advised respondent No.2 that the MCCs who are working on ad hoc basis for more than three years in the Construction Organisation will be

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regularised as such by their respective parent department where they hold their lien i.e. from where they have been drafted to the Construction Organisation. The applicant represented his case to the concerned authorities but his representation evoked no response. Aggrieved by the action of the respondents in relieving him of the post of MCC without his consent and not taking up his case by respondent No.2 for regularisation after he had completed more than three years of service, the applicant had to move this application.

3. We have heard the learned counsel for the applicant and Mr.S.S.Vyas, Advocate, brief holder for Mr.R.K.Soni, counsel for the respondents.

4. The applicant was given pay benefit for utilisation as. MCC grade Rs.950-1500 (RPS) for the block period only, vide Annexure A-3 dated 9.10.92. He was ordered to be posted in the scale Rs.750-940 vide an order dated 3.10.96, at Annexure A-1. The operation of this order has been stayed vide an order of this Bench of the Tribunal passed on 25.10.96 and it is stated on behalf of the applicant that he is still working as MCC grade Rs.950-1500 till date. The learned counsel for the applicant has drawn our attention to a circular dated 9.4.97, issued by the Railway Board, on the subject of regularisation of casual labour working in Group-C scales and has urged that the case of the applicant may be considered by the respondents in terms of the said circular dated 9.4.97, which has been produced by the applicant and taken on the record of this case. Para-3 of the Railway Board's circular, referred to above, which is relevant, may be extracted as follows :-

"3. The question of regularisation of the Casual Labour working in Group-C scales has been under consideration of the matter. After careful consideration of the matter, Board have decided that the regularisation of Casual Labour working in Group-C scales may be done on the following lines:-

- i) All casual labour/substitutes in Group-C scales whether they are Diploma Holders or have other qualifications, may be given a chance to appear in examinations conducted by RRB or the Railways for posts as per their suitability and qualification without any age bar.
- ii) Notwithstanding (i) above, such of the Casual Labour in Group-C scales as are presently entitled for absorption as skilled artisans against 25% of the promotion quota may continue to be considered for absorption as such.
- iii) Notwithstanding (i) and (ii) above, all casual labour may continue to be considered for absorption in Group-D on the basis of the number of days

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put in as casual labour in respective Units."

It is true that the applicant has been discharging the duties of MCC from 10.10.92. Of course, the applicant has not cleared the suitability test for the post of MCC. In the circumstances, it would be expedient in the interest of justice if the applicant's case for regularisation is considered in terms of the provisions contained in para-3 of the aforesaid circular of the Railway Board, reproduced above.

5. In the result, this application is disposed of with a direction to the respondents to consider the applicant's case for regularisation in Group-C post, as prayed for by him, in terms of the provisions contained in para-3 of the Railway Board's circular dated 9.4.97, subject to his passing the suitability test as per his turn and seniority. No order as to costs.

Gopal Singh
(GOPAL SINGH)

ADM. MEMBER

VK

Gopal Krishna
(GOPAL KRISHNA)

VICE CHAIRMAN