

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 11.3.98

O.A. No. 81 of 1996

Virendra Deo Upadhyaya son of Shri P.D. Upadhyaya aged about 35 years, working as adhoc Typist under the Dy. Chief Engineer (Construction), Northern Railway, Bikaner, resident of Mukta Prasad Colony, Bikaner.

.... Applicant.

v e r s u s

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

.... 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, Virendra Deo Upadhyaya, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 31.1.1996 (Annexure A/1) through which the applicant was sought to be reverted to his substantive post of Semi Skilled Khallasi in grade Rs. 800-1150.

2. The case of the applicant is that he was engaged in the construction organisation as a casual labour on 6.1.1984 and was deployed as adhoc Typist since then. For regularisation of his services on the post of Typist, the applicant had approached this Tribunal vide O.A. No. 231/92 and this Tribunal while disposing of that application vide order dated 3.12.1992, 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

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of typist and he shall be entitled to regularisation after he passes such test. Parties to bear their own costs."

Against this order, the respondents have filed a Review Petition No. 15/93 and the same was also dismissed by this Tribunal on 6.1.1994. In the meantime, the applicant was subjected to suitability test for the post of Typist vide letter dated 20.2.1993 (Annexure A/6). The result of the same was declared vide letter dated 22.5.1993 (Annexure A/7) wherein the applicant was declared suitable for the post of Typist. Instead of regularising the services of the applicant as Typist, the respondents initiated fresh action to adjudge the suitability of the applicant through written and typing test vide letter dated 2.3.1995 (Annexure A/11) and the applicant was declared unsuccessful in this test vide their letter dated 3.5.1995 (Annexure A/16). As a result thereof, the respondents have issued reversion order of the applicant vide Annexure A/1 dated 31.1.1996, which has been sought to be set aside in this O.A.

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

4. We find that as per the directions of this Tribunal in O.A. No. 231/92 passed on 3.12.1992, a suitability test was held as per the order dated 20.2.1993 (Annexure A/6) and the applicant was declared successful vide respondents' letter dated 22.5.1993 (Annexure A/7). The learned counsel for the respondents have not contested this position and instead he has strenuously argued that the suitability test of the employee was initiated only on 2.3.1995 (Annexure A/11). It is worthwhile to mention that this Tribunal had passed this order on 3.12.1992 directing the respondents to take the suitability test of the applicant and it just cannot be believed that the respondents initiated action in this direction on 2.3.1995, i.e., after a period about two years. We also find a letter dated 9.8.1994 (Annex.A/9) from the Chief Administrative Officer (Construction), Northern Railway, Delhi (respondent No.2), to the Divisional Railway Manager, Northern Railway, Bikaner (respondent No. 3) requesting the later to take urgent steps to implement the judgement of this Tribunal so as to avoid contempt of Court proceedings. Thus, the plea of the learned counsel for the respondents is that the action to implement the directions of the Tribunal passed on 3.12.1992 was initiated vide their letter dated 2.3.1995 is not sustainable and the same is rejected. In its order dated 3.12.1992, the Tribunal had observed that he shall be entitled to regularisation as Typist after he passes the type test. In our view, the applicant had passed the suitability test for the post of Typist and he deserves regularisation in that cadre as per rules with all consequential benefits.

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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/1) is set aside.
- (ii) Since the applicant had already passed the suitability test for the post of Typist, the respondents should regularise the services of the applicant in the grade of Typist with all consequential benefits within a period of three months from the date of receipt of a copy of this order.

6. There shall be no order as to costs.

(GOPAL SINGH)

Adm. Member

(A.K. MISRA)

Judl. Member

CVR.