

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Date of order : 10.02.1998.

ORIGINAL APPLICATION NO. 178/1996.

Manohar Balani S/o Shri L.G.Balani, aged about 32 years, R/o C-8, Masooriya Colony, UIT Quarters, Jodhpur at present employed on the post of Sub Overseer Mistri in the office of Deputy Chief Engineer (C-II) Jodhpur, Northern Railway.

..... Applicant

VS.

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.

2. The Chief Administrative Officer (Construction), Kashmiri Gate, Delhi-6.

3. The Deputy Chief Engineer (C-II), Jodhpur Northern Railway.

..... Respondents

COURT :

HON'BLE M.R. A. K. M ISRA
(Judicial Member)

Mr. J.K.Kaushik, Advocate, for the applicant.
Mr. R.K.Soni, Advocate, for the respondents.

O R D E R

BY THE COURT :

The applicant who was employed as Sub Overseer Mistri in the office of Dy.Chief Chief Engineer (C-II), Northern Railway, Jodhpur, has filed this Original Application with the prayer that the respondents be directed to grant him four advance increments as incentive in

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accordance with Railway Boards Circular dated 29.5.1989 (Annex.A/3) from 12.7.1993 and allow him all consequential benefits including the arrear of pay alongwith interest etc.

2. Notice of this Original Application was given to the respondents who have filed their reply to which rejoinder was also filed by the applicant.

3. I have heard the learned counsel for the parties and gone through the record.

4. It was argued by the learned counsel for the applicant that applicant was granted temporary status w.e.f. 12.4.1985 and thereafter ~~and thereafter~~ he had passed Section 'A' of AMIE (India) in the year 1987 with the prior permission of the competent authority and was granted two advance increments as incentive in pursuance of the Circular Annex.A/3. Thereafter, the applicant appeared in Section 'B' part of the AMIE Examination in the year 1993 and passed the same. Thus, he is entitled to four advance increments as incentive in view of the aforesaid Circular dated 29.5.1989. On the other hand the learned counsel for respondents submitted that the Circular Annex.A/3 is applicable only to the regular employees of the Railway and since applicant was not given regular status prior to his appearing and passing the examination in question, therefore, he is not entitled to draw the incentive increments.

5. I have considered the rival arguments and gone through the Circular. The applicant who was initially employed as Sub-Overseer Mistri on casual basis on

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17.4.1984 was granted temporary status on 12.4.1985. The applicant had appeared in Section 'A' examination and was granted two advance increments in the year 1987. The said benefit has not ever been withdrawn from the applicant treating him to be a casual employee. The Circular (Annex.A/3) which is not disputed by any of the parties, does not mention that this is applicable only to the regular Railway employees. It indicates that Railway employees would be guided by the Circular. This is undisputed that temporary status was granted to the applicant in the year 1985. Once a person secures the temporary status in the Railways he becomes a Railway employee and there cannot be any question of dispute in this regard. The applicant had appeared in the departmental examination but it has not been shown by the respondents that he had appeared without prior permission of the competent authority. If that be so, the competent authority should have refused permission to the applicant to appear in the examination in question if he was not a regular employee. However, the concerned authority in his wisdom permitted the applicant to appear in the said examination. Once the applicant has passed the examination, he becomes entitled to four increments as per the circular Annex.A/3) and it does not lie in the mouth of the respondents ^{to say} that the said circular is applicable only to the regular employee. Therefore, the contention of the learned counsel for the respondents is turned down.

6. There is no dispute in respect of applicant's having passed part 'B' examination. Nothing has been

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shown to me superseding the Circular (Annex. A/3). Therefore, once the benefit has become due to the applicant in terms of the Circular, he cannot be refused the same simply on the ground that the Circular (Annex. A/3) is not applicable to him. In my opinion, the applicant who was granted temporary status by the respondents is fully covered by the contents of the Circular (Annex. A/3) and is entitled to incentive increments as indicated in the Circular. Therefore, the O.A. deserves to be accepted.

7. The O.A. is, therefore, allowed. The respondents are directed to release the incentive increments to the applicant in terms of Circular RBE No. 140/89 dated 29.5.1989 (Annex. A/3) for having passed Section 'B' AMIE Examination, and pay the applicant the arrears thereof by revising his pay accordingly within a period of three months from the date of communication of this order.

8. Parties are left to bear their own costs.

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(A.K. MISRA)
Judicial Member

Mehta/CV

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Part II and III destroyed
in my presence on 25-3-2004
under the supervision of
Section Officer (I) as per
order dated 22/12/2003.

Signature
Section officer (Record)