

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

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Date of Decision: 10.12.97

OA 187/96

Inder Chand, Carpenter under Dy.Chief Engineer (Construction)-I, Northern Railway, Jodhpur.

... Applicant

Versus

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

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.Y.K.Sharma

For the Respondents

... Mr.Jagdish Vyas, brief holder
for Mr.V.D.Vyas

O R D E R

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Inder Chand, has filed this application u/s 19 of the Administrative Tribunals Act, 1985, seeking a direction to the respondents to regularise his services on the post of Carpenter grade Rs.950-1500 (RPS) with all consequential benefits.

2. The facts giving rise to this application are as follows. The applicant was initially engaged as a Casual Labour Carpenter on 15.5.85 under the Inspector of Works (Construction), Bridge, Northern Railway, Suratgarh. Temporary status was conferred on him w.e.f. December, 1986. He was subjected to trade test on 28.1.87 and 29.1.87 and was found suitable for the post of Carpenter. When the Railway Administration adopted a policy of subjecting casual labour with temporary status to screening for Group-D posts, the applicant had offered himself for screening under protest. Apprehending his reversion to a Group-D post in the grade Rs.750-940 (RPS), the applicant made a representation to the concerned authority for regularisation of his service on the post of Carpenter but no heed was paid to it. Ultimately, the applicant had to approach this Tribunal for his regularisation in the post held by him i.e. a Group-C post. On

the contrary, the respondents have resisted this application and have stated in their reply that the applicant was granted temporary status w.e.f. 16.5.86 on the post of Khalasi in the grade Rs.750-940 (RPS) vide Annexure R-2. He was engaged as a Carpenter grade Rs.950-1500 on TLA basis sanctioned by the SEN/C/SOG from time to time. It is also stated by the respondents that no regular/permanent cadre post is available with the Construction Department for holding any trade test. It is also stated by the respondents that the result of the screening test is still awaited and that the applicant had attended the screening test willingly for absorption against the regular vacancy in Group-D post and his case for further promotion to Group-C post will be considered by the respective division as per avenue of promotion prescribed under the rules. The respondents have also raised the plea of limitation.

3. We have heard the learned counsel for the applicant and Mr.Jagdish Vyas, Advocate, brief holder for Mr.V.D.Vyas, counsel for the respondents. We have carefully perused the records. Counsel for the parties have agreed to this matter being disposed of at the stage of admission.

4. So far as the plea of limitation is concerned, it is stated that the applicant is claiming regularisation on the post of Carpenter grade Rs.950-1500 and had already made a representation in regard to his grievance to the concerned authority. He has filed the present application on 6.8.96 when his representation dated 8.9.95, at Annexure A-1, had evoked no response. The applicant had offered himself for the screening test for Group-D post after being called for the same vide Annexure A-3, dated 14.3.96. Apprehending his reversion, he had to move this application. In the circumstances, the plea of limitation is not sustainable. The present application has been filed well within time.

5. It is borne out by the record that the applicant was engaged as a casual labour Carpenter on 15.5.85. It has been categorically stated by the respondent that he was engaged as a Carpenter grade Rs.950-1500 on TIA basis. It is evident from Annexure A-2 dated 15.10.87 that the applicant has passed the trade test for the post of Carpenter grade Rs.950-1500. His case is, therefore, covered by the circular of the Railway Board dated 9.4.97, on the subject of regularisation of casual labour working in Group-C scales. The aforesaid circular of the Railway Board has been produced on behalf of the applicant and the same has been taken in the record. It is urged on behalf of the applicant that his case for regularisation may be considered by the respondents in terms of the provisions contained in the aforesaid circular. Para-3 of the Railway Board's Circular referred to above, which is relevant, may be extracted as follows :-

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"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 put in as casual labour in respective Units."

Since the applicant has been discharging the duties of a Carpenter grade Rs.950-1500 continuously from 15.5.85 and he has also passed the trade test for the said post, it would be expedient in the interest of justice if his case for regularisation is considered in terms of the aforesaid circular.

6. In the result, this application is disposed of, at the stage of admission, with a direction to the respondents to consider the applicant's case for regularisation/absorption in Group-C post, as prayed for by him, in terms of the provisions contained in para-3 of the circular of the Railway Board dated 9.4.97 subject to the availability of vacancies as per his turn and seniority, as expeditiously as possible. No order as to costs.

Gopal Singh

(GOPAL SINGH)

ADM. MEMBER

Gopal Krishna
(GOPAL KRISHNA)

VICE CHAIRMAN

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