

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

DATE OF ORDER : 11.08.1999.

1. OA NO. 121/1997

Raj Pal S/o Sh.Bhuri Ram By Caste ST, Gang Mate (Casual Labour), Engineering Construction, Northern Railway Lalgarh Jn. (Bikaner) R/o Tent Near Lalgarh Junction, Bikaner.

2. OA NO. 122/1997

Shyam Lal S/o Shri Halke Caste Chamor Gangmate, Engineering Construction, Northern Railway, Lalgarh Junction (Bikaner), R/o Tent House, Near Lalgarh Junction, Bikaner.

3. OA NO. 123/1997

Ramawadh S/o Shri Dev Sharan, By Caste Yadav, Gangmate (Casual Labour), Engineering Construction, Northern Railway, Lalgarh Junction (Bikaner) R/o Tent Near Lalgarh Junction, Bikaner.

4. OA NO. 124/1997

Ramender Singh S/o Shri Hari Singh, By Caste Rajput, Gangmate (Casual Labour), Engineering Construction, Northern Railway, Lalgarh Junction (Bikaner) R/o Tent, Lalgarh Junction, Bikaner.

5. OA NO. 125/1997

Radhey Shyam S/o Shri Bhagwan Ram By Caste Sahu, Gangmate, Engineering Construction, Northern Railway, Lalgarh Junction (Bikaner), R/o Tent House, Near Lalgarh Junction, Bikaner.

..... A P P L I C A N T S

VERSUS

1. Union of India through General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. The Chief Administrative Officer (Construction), Railway Construction Headquarter, Kashmiri Gate, Delhi.
3. The Divisional Railway Manager, Northern Railway, Bikaner.

3/11

4. The Deputy Chief Engineer (Construction), Railway Construction Office, Civil Lines, Bikaner.
5. The Senior Civil Engineer (Construction), Railway Construction Office, Civil Lines, Bikaner.

..... R E S P O N D E N T S

(In all the O.As)

.....
PRESENT

Mr. Bharat Singh, Counsel for the applicants.
Mr. Vasu Dev Vyas, Counsel for the respondents in OAs at Sl.No.1,3 and 4.
Mr. S.S. Vyas, Counsel for the respondents in OAs at Sl.No. 2 and 5.

.....
CORAM

HONOURABLE MR. A.K.MISRA, JUDICIAL MEMBER

HONOURABLE MR. N. P. NAWANI, ADMINISTRATIVE MEMBER

.....
O R D E R

PER MR. A.K.MISRA :

In all the above mentioned O.As, the relief sought by the applicants and the question which is required to be decided, is common, therefore, all these O.As are disposed of by one single order.

2. In order to appreciate the real controversy in all these O.As, it would be better to briefly narrate the facts in respect of each applicant.

OA NO.121/1997

3. Applicant, Rajpal, has alleged that he was appointed as Mate w.e.f. 15.9.1977 and was granted temporary status on the post of Mate on 1.1.1982 and thereafter he is working

b/w

on the post of Mate. The respondents in their reply have stated that the applicant was appointed as Casual Labour Daily Rated Mate on 15.7.1977 and was granted the temporary status as a Gangman on 1.1.1982 but was allowed to work as temporary status Mate on ad hoc basis in the grade of Rs. 225-308. Thereafter, the applicant appeared in the screening test against 40% construction reserved posts in Group 'D' category and was accordingly screened and empanelled at No. 47 and his paper lien was fixed as Lampman in Operating Branch.

OA NO. 122/1997



Applicant Shyam Lal has alleged that he was appointed as Gangman/Mate on 15.9.77 and was granted temporary status on the post of Mate on 1.1.1982. In reply to the O.A. the respondents have stated that the applicant was initially engaged as a Casual Labour Daily Rated Gangman in Construction Organisation on 15.9.1977 and was then engaged as Casual Mate on 28.9.1977. He was not initially engaged as Mate. Thereafter, the applicant was granted temporary status as Gangman w.e.f. 1.1.1982 in the Grade Rs. 200-250 but was allowed to work as Ad hoc Mate and is being utilised as ad hoc Mate since then. The applicant, thereafter, on being called, willingly appeared for screening against 40% Construction reserved posts. He was screened as a Gangman but his services were utilised as Mate on ad hoc basis in Construction Organisation.

OA NO. 123/1997

3.1
Applicant Ramawadh has alleged that he was appointed as Gangman on 9.3.1972 and was granted temporary status as

Mate on 1.1.1981 and since then he is working on the post of Mate. In reply, the respondents have stated that the applicant was initially engaged only as a Casual Labour Daily Rated Khalasi on 9.3.1972 and was put to work as Casual Rated Trolleyman w.e.f. 5.9.1972. With Effect From 21.7.1973, the applicant was put to work as Casual Daily Rated Mate. The applicant was granted temporary status as Gangman w.e.f. 1.1.1981 in the Grade Rs.200-250 and was allowed to work as Mate in the Grade Rs.225-308 w.e.f. 1.1.1981. Thereafter, the applicant willingly appeared in the screening test against 40% Construction reserve quota. He was screened and empanelled as Gangman in Group 'D' but his services are being utilised for more than 5 years on temporary status as Mate.

OA NO. 124/1997



Applicant Ramender Singh, has alleged that he was appointed as Gangman/Mate on 15.1.1973 and was granted temporary status as Gangman on 16.9.1980 and was posted as Mate on 5.12.1990. The respondents in their reply have stated that the applicant was engaged as Casual Labour Daily Rated Khalasi on 15.1.1973 and he worked as such up to 15.1.1980. Thereafter, the applicant was screened and regularised as a Gangman in Group 'D' category in Grade Rs. 200-250 w.e.f. 22.4.1980. The applicant was, thereafter, promoted on the post of Mate on 11.12.1990 on purely ad hoc and local arrangement basis.

OA NO. 125/1997

Applicant Radhey Shyam, has alleged that he was appointed as Mate in the year 1976 and was given temporary status on the post of Mate on 19.09.1978. In reply, the

Shyam

respondents have stated that the applicant was initially engaged as Casual Labour Daily Rated Khalasi on 4.6.1976 and then Casual Labour Daily Rated Mate on 19.9.1978. The applicant was granted temporary status as a Gangman in the Grade Rs. 200-250 w.e.f. 1.1.1983 but was allowed to work as temporary status ad hoc Mate from that date. The applicant was called for screening test against 40% Construction reserve posts in Group 'D' category. The applicant willingly appeared before the Screening Committee and was screened as Gangman in the grade Rs. 200-250 w.e.f. 1.4.1984 but his services were utilised as Mate on ad hoc basis.

4. In all these O.As the applicants have prayed that the respondents be directed to declare seniority position of the applicants and implement the order No. 220E/190/XIIC/E-IV dated 14.08.1996, issued by the General Manager, Northern Railway, New Delhi, regularising the services of the applicants on the present post in the skilled category on the basis of their seniority, with all service benefits in respect of applicants' seniority, promotion and monetary benefits. In all their replies, the respondents have stated that the applicants are not entitled to get their service regularised as Mate on the basis of long utilisation of their services as Mate against the 25% regular vacancies reserved for departmental promotion. It is also alleged by the respondents that services of Mate can be considered in regular grade only on fulfilment of condition of promotional channel i.e. Gangman, Senior Gangman, Keyman and then on the post of Mate. Therefore, the applicants are not entitled to be regularised on the post of Mate directly.

5. From the facts of all the above O.As, it appears that



has cited the following cases :-

- (1) 1998 SCC (L&S) 1578 - Rashtriya Chhaturth Shreni Railway Mazdoor Congress (INTUC) Vs. U.O.I. and Ors.
- (2) 1997 (36) ATC 396 - Geeta Rani Santara and Ors. Vs. U.O.I. and Ors.
- (3) 1997 (35) ATC 474 - Vishnu Kant Shukla Vs. U.O.I.
- (4) 1998 SCC (L&S) 1273 - Secretary-cum-Chief Engineer, Chandigarh Vs. Hariom Sharma and Ors.
- (5) 1996 (1) SLJ 116 - Ram Kumar and Ors. Vs. U.O.I.

On the other hand, the learned counsel for the respondents has argued that the applicants cannot be regularised on the post of Mate in pursuance to the Railway Board's letter dated 14.8.1996 because the same does not apply in the instant case. He has also argued that all the applicants have been screened for the group - 'D' post and have been empanelled. The post of Mate is a promotional post and the applicants have to work-out their seniority and ~~secure~~ promotion so as to be regularised on the post of Mate. He has further argued that applicants' continuance for number of years on the post of Mate does not entitle them to be regularised on the post of Mate. He has cited (1996) 33 ATC 304 - U.O.I. Vs. Motilal and Ors., the order dated 3.4.1997 rendered by the Central Administrative Tribunal, Allahabad Bench in O.A. No. 19/1994 - Ram Naresh Vs. U.O.I. and Ors and the order dated 22.6.1998 rendered by Central Administrative Tribunal, Jodhpur Bench, Jodhpur, in O.A. No. 350/1996 - Ratan Lal Vs. U.O.I. and Ors.

7. We have considered the rival arguments and have gone through the rulings cited by the learned counsel for the

parties. The rulings cited by the learned counsel for the applicants are on different points and rule propounded therein cannot be made applicable in the instant case.

8. The case reported in 1998 SCC (L&S) 1578 - Rashtriya Chhaturth Shareni Railway Mazdoor Congress (INTUC) Vs. U.O.I. and Ors., is relating to regularisation of Porters working on the Railway Station. The case was only remanded by Hon'ble the Supreme Court for giving decisions on merit. In this case, the matter of regularisation is yet to be decided. In 1997 (36) ATC 396 - Geeta Rani Santara and Ors. Vs. U.O.I. and Ors., the matter of grant of pension was involved and it was held that at the time of death or superannuation, pension is payable on the principle of deemed regularisation. Obviously, the point involved was different than the one in hand. In 1997 (35) ATC 474 - Vishnu Kant Shukla Vs. U.O.I., the matter of extra departmental agents and the departmental remedy was involved, which has no application in the instant case. 1998 SCC (L&S) 1273 - Secretary-cum-Chief Engineer, Chandigarh Vs. Hariom Sharma and Ors., in this case, promotion was granted on stop-gap-arrangement basis which continued for long time, it was held that such persons were entitled to be considered for regular promotion. In the present cases, the applicants were not promoted to the post of Mate, however, they were directed to discharge their duties on the promotional post for which they were paid regularly. The channel of promotion in case of Mate from the post of Gangman is first, to the post of Senior Gangman and then to the Keyman and then to the post of Mate, that too on the basis of 25% departmental promotion quota. Thus, the present ruling is also not applicable in the instant case. ~~and~~ In 1996 (1) SLJ 116 - Ram Kumar and Ors. Vs. U.O.I.,



we find that this relates to skilled workers working in Class-III posts. In our opinion, Mate, does not fall in skilled or semi skilled categories, therefore, the direction given in the Ram Kumar's case for regularisation of skilled workers, will not be applicable in the instant case.

9. The applicants are seeking regularisation on the present posts of Mate by application of provisions of Para 2007 (3), IREM - II (1990) but in our opinion, these provisions relate to casual labours promoted to semi skilled, skilled or highly skilled categories. Such persons can be regularised on the basis of working for a long period on the post provided they have passed the requisite trade test. Since the post of Mate is not a post of semi skilled or skilled category, therefore, these provisions do not apply in the instant case. The arguments advanced by the learned counsel for the applicant are liable to be rejected; the ruling cited by him also do not apply in the instant case. On the other hand, the rule propounded in AIR 1996 SC 3306 - U.O.I. and Ors. Vs. Moti Lal and Ors., ^{is} directly applicable in the instant case. It was held in that case that ""a daily wage or casual worker against a particular post when acquires a temporary status having worked against the said post for specified number of days does not acquire a right to be regularised against the said post. He can be considered for regularisation in accordance with the Rules and, therefore, so far as the post of Mate under Railways is concerned, the same has to be filled up by a promotion from the post of Gangman and Keyman in Class -IV subject to employees passing the trade test." The same principle was followed by Allahabad Bench in Ram Naresh's case and by this Bench in Ratan

[Signature]

Lal's case, cited above. We do not have any reason to have a different view than expressed by us earlier in the matter of regularisation of applicants on the post of Mate. Since the post of Mate is a promotional post, Class 'D' employees of Railways cannot directly be promoted on that post unless they go through the stages of Senior Gangman and Keyman by securing promotion at the respective stages. Therefore, even grant of temporary status to the applicants on the post of Mate would not entitle them to be regularised and absorbed as Mates.



10. In our opinion, the applicants have not been able to make out a case of their regularisation on the post of Mate directly. The Original Applications, therefore, ~~are~~ liable to be rejected and ~~is~~ hereby rejected. The parties are left to bear their own costs.

N.P.NAWANI
(N.P.NAWANI)
Adm.Member

8th/11/81/99
(A.K.MISRA)
Judl.Member

mehta

Copy of order dt 11-8-99 passed in OA 121/97, 123/97 & 124/97

Given to Respondent Advocate Sh V.D. Vyas

and collected by Sh. J.P. Parashar Advocate Junior to Sh Vyas

With authority letter dt 18/8/99 filed in Part III of file

1000

② Copy received on this

day 18/8/99

R.1 & R.5
OA No 121/97
123/97 & 124/97

OA No

1276 (2nd pg)

Received copy

Mat J 19/8/99

③

Recd copy
D. B. Vyas
20-8-99

Part II and III destroyed
in my presence on 14-7-99
under supervision of
Section Officer (1) as per
order dated 16-7-99

Section Officer (Record)