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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of order : 06.04.99

O.A. No. 40/1997

Mool Singh aged about 30 years son of Shri Laxman Singh Shekhawat, resident of 83, Hathi Ram-Ka-Oda, Stadium Road, Jodhpur, at present employed on the post of Typist (T.S) at Barmer Northern Railway.

... Applicant.

v e r s u s

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Chairman, Railway Board, Rail Bhawan, New Delhi.
3. Director Establishment (N) Railway Board, New Delhi.
4. Divisional Railway Manager, Northern Railway, Jodhpur.
5. Divisional Commercial Manager, Northern Railway, Jodhpur.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. R.K. Soni, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. N.P. Nawani, Administrative Member.

ORDER

(Per Hon'ble Mr. A.K. Misra)

The applicant has filed this OA with the prayer that the impugned orders dated 16.1.97 (Annexure A/2) and 4.2.97 (Annexure A/1) may be quashed and set aside. The applicant has further prayed that the respondents be directed to implement the select panel dated 10.4.96 (Annexure A/3) and absorb the applicant in the grade Rs. 950-1500 on the post of Typist/Clerk for which

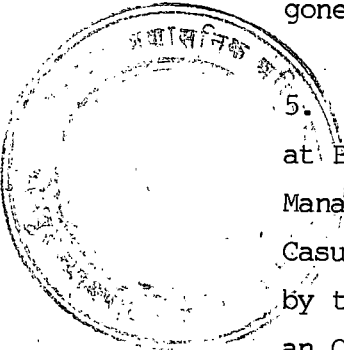
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he has been selected and put on the panel from the date when he was due or from the date of panel with all consequential benefits.

2. Notice of this O.A. was given to the respondents who have filed their reply stating therein that the applicant is not entitled to the relief as claimed by him. The respondents have further stated that the Railway Board has rejected the recommendation of other respondents for regularisation of the applicant as per the order of the Tribunal. The O.A. deserves to be rejected.

3. The applicant has filed rejoinder and stated therein that similarly situated employees were regularised by the respondents. The applicant seems to have been left out inadvertently. By additional affidavit dated 20.1.99, the applicant has brought on record an order dated 7.1.99 rendered in O.A. No.107/97 and stated that similarly situated employee, Shri Dashrath Raj Mehta, has been ordered to be considered for appointment to the post of Clerk in parity to the case of two other similarly situated persons.

4. We have heard the learned counsel for the parties and have gone through the records.



5. The case of the applicant is that he was appointed as Typist at Barmer Railway Station controlled by the Divisional Commercial Manager, Jodhpur. He is continuously working since 26.10.89 as Casual Typist. The services of the applicant were to be discontinued by the order of the respondents which forced the applicant to file an O.A. This O.A. was decided on 18.4.95 in which it was ordered: "In the result, we direct the respondents to consider <sup>and examine</sup> the applicant's case for regularisation in the post of Typist/Clerk as per rules subject to the availability of vacancies. This exercise shall be done within a period of six months from the date of receipt of a copy of this order. "

6. In compliance of the order of the Tribunal quoted above, the respondents conducted the suitability test, speed test etc. and placed the name of the applicant on the provisional select panel

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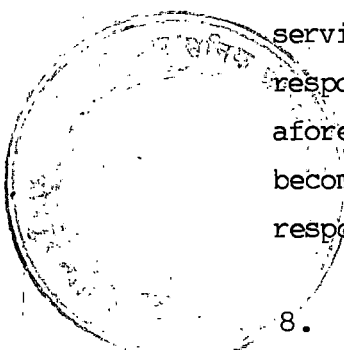
dated 10.4.96. The case of the applicant for regularisation was sent to the General Manager for necessary approval. The General Manager in his turn referred the case to the Railway Board for being approved for appointment whereas the General Manager himself was a competent authority to regularise the applicant on the post of Typist/Clerk.

7. The learned counsel for the applicant has argued that earlier two OAs were filed, one by Shri Dashrath Raj Mehta, ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~, which was registered at 156/94 and the other one was filed by Shri Mool Singh, i.e. the present applicant, which was registered at No. 157/94. Both these OAs were disposed of by one single order and directions as quoted above were given to the respondents. In the case of Shri Dashrath Raj mehta, which was registered at 107/1997, the Tribunal had given following directions on 7.1.99:-

"The original application is accordingly disposed of with the direction to the respondents to consider the case of the applicant for appointment to the post of Clerk as a special case as has been done in the case of two other similarly situated persons, within a period of three months from the date of issue of this order."

He has further argued that in pursuance of this direction, the services of Shri Dashrath Raj Mehta have been regularised. The respondents' writ before the Hon'ble High Court against the aforesaid order was not accepted and, therefore, the order has become final. The applicant's case is similarly situated and the respondents cannot discriminate the applicant.

8. We have considered the arguments. The respondents in compliance of the Tribunal's order conducted the test of the applicant for appointment to the post of Typist/Clerk. The applicant qualified the same and his name was placed in the provisional panel. The respondents proposed action dispensing with the services of the applicant was stayed by the Tribunal in this case and consequently, the applicant is continuously working with the respondents. It is not the case of the respondents that no posts of Typists/Clerks are available to accommodate the applicant. The General Manager is the competent authority to

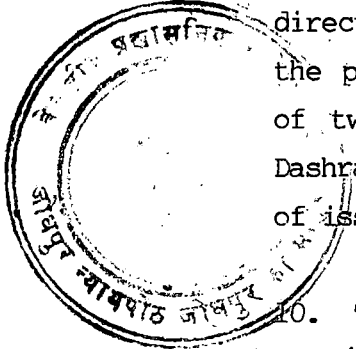


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appoint/regularise a Class III employee, therefore, approval of the Railway Board was not at all necessary more so in view of the directions given to the respondents by the Tribunal. We do not find that the case of the present applicant is in any way distinguishable from the case of Shri Dashrath Raj Mehta, who has been regularised as per the directions of the Tribunal. In the past, two similarly situated persons were also regularised on the post of Typist in spite of ban on recruitment of Typists in the Railways as has been alleged by the applicant. Therefore, the respondents cannot give a discriminatory treatment to the applicant in the matter which is similar to the earlier cases. In our view, the O.A. deserves to be accepted.

9. The O.A. is, therefore, accepted and the respondents are directed to consider the case of the applicant for appointment to the post of Clerk as a special case as has been done in the case of two other similarly situated persons and the case of Shri Dashrath Raj Mehta, within a period of three months from the date of issue of this order.



10. The parties are left to bear their own costs.

(N.P. NAWANI)  
Adm. Member

*for*  
6/11/99.  
( A.K. MISRA )  
Judl. Member

Cvr.

*[Faint, illegible text, possibly a stamp or signature]*

Received Copy  
4/17/99  
16/4/99

R/ Copy  
20/4/95

Part II and III destroyed  
in my presence on 4-7-06  
under the supervision of  
section officer (1) as per  
order dated 4-7-06

Section officer (Record)