

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 46/1997
T.A. No.

199

DATE OF DECISION : 17.02.2000.

Jansi

Petitioner

Mr. J.K. Kaushik,

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent(s)

Mr. R.K. Soni,

Advocate for the Respondent (s)



CORAM :

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

The Hon'ble Mr. Gopal Singh, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? *no*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *no*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *no*

Gopal Singh
(Gopal Singh)
Adm. Member

A.K. Misra
(A.K. Misra)
Judl. Member

11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

O.A. No. : 46/1997

Date of Order : 17.2.2000

Jansi S/o Shri Sarbha, aged about 48 years, resident of c/o Dy. Chief Engineer (Construction)-II, Jodhpur, Northern Railway, at present employed on the post of Casual Mate (TS) in the office of Duty Store Keeper, Bhagat-Ki-Kothi, Jodhpur, Northern Railway.

..Applicant.

Versus

1. The Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Superintending Engineer (C), Northern Railway, Jodhpur.
3. Dy. Chief Engineer (Construction)-II. Northern Railway, Jodhpur.
4. Chief Administrative Officer (Construction), Northern Railway, Hqs Office Kashmiri Gate, Delhi.

..Respondents.

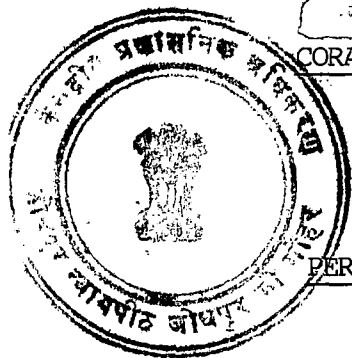
Mr. J.K. Kaushik, counsel for the applicant.

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

CORAM :- Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. GOPAL SINGH :



Applicant, Jansi, has filed this application under section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 06.2.1997 (Annexure A/1), qua the applicant, and further for a direction to the respondents to consider the absorption of the applicant on the post of Mate in the scale of Rs. 950-1500/-. By way of interim relief, the applicant has prayed for staying the operation of impugned order dated 06.2.1997 till final decision of this case.

2. Applicant's case is that the applicant was appointed as Mate in the year 1976 at Sakurbasti in the division of Northern Railway. He is

Gopal Singh

presently employed in Jodhpur division on the post of Mate. He has been holding the post of Mate since his initial appointment. The applicant has been screened by the respondent department for a Group D post and accordingly he has been ordered to be posted on the post of Gangman scale 775-1025/- in the office of Divisional Engineer, Northern Railway, Samdari. Applicant's contention is that in terms of para 2007(3) of IREM II Volume, 1990 Edition, casual labourers working on semi-skilled and highly skilled categories and continue to work as such for a long period can straight away be absorbed in regular vacancies in the said grade provided they have passed the requisite trade test to the extent of 25 % of the vacancies for the departmental promotion from the unskilled and semi-skilled categories. The applicant has not been absorbed in semi-skilled category and instead has been ordered to be posted on the post of Gangman. Feeling aggrieved, the applicant has approached this Tribunal.



By way of interim relief, the operation of order dated 6.2.1997 at Annexure A/1 was stayed and the applicant has been working on the post of Mate till date.

4. Notices were issued to the respondents and they have filed their reply. In their reply they have stated that the applicant was initially appointed as Gangkhalasi and was promoted on adhoc basis as Mate vide their order dated 20.3.1985. The applicant was granted temporary status with effect from 01.01.84 in the grade of Rs. 225-308. It has also been asserted by the respondents that temporary status holder does not acquire any right to be regularised against the post he is holding. It has also been averred by the respondents that the post of Mate is to be filled up on promotion from the post of Gangman and Keyman subject to passing the trade-test. The mere continuance as a casual adhoc Mate for a considerable period does not give a right to

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the applicant for regularisation on the post. The applicant, therefore, can not be considered for regularisation on the post of Mate and the posting of the applicant as Gangman as per Annexure A/1 is just and according to rules. The application does not deserve any merit and, therefore, may be dismissed.

5. We have heard the learned counsel for the parties and perused the records of the case. Para 2007(3) of IREM, Vol.II is reproduced below :-

Para -2007(3) IREM-II(1990)

"Casual labour engaged in work charged establishment of certain department who get promoted to semi-skilled, skilled and highly skilled categories due to non-availability of regular departmental candidates and continue to work as casual employees for a long period can straightaway be observed in regular vacancies in skilled grades provided they have passed the requisite trade test to the extent of 25% of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. These orders also apply to the casual labours who are recruited directly in the skilled categories in work charged establishments after qualifying in the trade test."

6. It would be seen from the above that the applicant deserves regularisation on the post of Mate since the post of Mate is a semi-skilled post. The Railway Board has further issued instructions for regularisation of casual labour working in group 'C' scales vide their letter dated 9.4.1997 (Annexure A/5), relevant extract of which are reproduced below :-

"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 in 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.

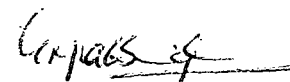
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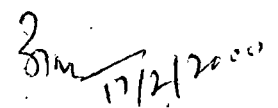
(iii) Notwithstanding (i) and (ii) above, all casual labour may continue to be considered for absorption in Group 'D' on the basis of the number of days put in as casual labour in respective units."

7. The Railway Board vide their circular dated 2.2.1998 have further prescribed the manner for filling up the vacancies in the artisan category of skilled grade in the scale of Rs. 950-1500/- RPS / Rs. 3050-4590. The circular dated 2.2.1998 provides for a trade test for being appointed to the post of skilled artisan against 25% quota. In terms of all these circulars, in our view, the applicant deserves consideration for appointment to the post of Mate in the scale of Rs. 950-1500/-. Thus, we find much merit in this application and the same deserves to be allowed.



The OA is accordingly allowed and impugned order dated 06.2.1997 (Annexure A/1) is set aside. The respondents are directed to consider the case of applicant for absorption on the post of Mate scale Rs. 950-1500/- in terms of the circulars cited above. The parties are left to bear their own costs.


(GOPAL SINGH)
Adm. Member


(A.K. MISRA)
Judl. Member

Savita

R/copy
on 2/1/2000
SAC

R/copy
4/2
(Per N. Leane)

Part II and III destroyed
in my presence on 2-6-9-2006
under the supervision of
section officer as per
order dated 2/8/2006

Section officer (Record)

Lib copy to GMSM
Feb 21/2