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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

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Date of order : 5.1.2001.

O.A.NO.239/98

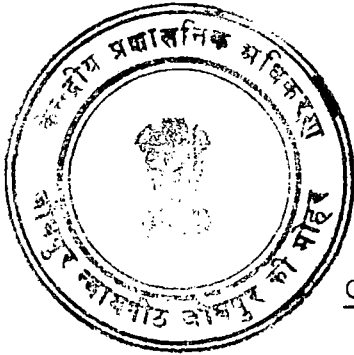
Tola Ram S/o Shri Bhanwar Lal aged about 50 years R/o Railway Quarter No. 114-C, Railway Colony, Ranapratapnagar, at present employed on the post of Driver Group C (ad hoc) under CIOW, Ranapratapsagar., Udaipur, Western Railway.

.....Applicant.

versus

1. The Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.

.....Respondents.



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CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

.....

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

Mr.S.S.Vyas, Counsel for the respondents.

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PER HON'BLE MR.A.K.MISRA :

The applicant had filed this O.A. with the prayer that the impugned order dated 9.9.98 (Annex.A/1), reverting the applicant to the post of Beldar, be declared illegal and be quashed. The respondents be further directed to consider regularisation/absorption of the applicant on the post of Driver in Group 'C' as per Para 2007 of the Indian Railway Establishment Manual, Vol.II Read With Para 159 of the Indian Railway Establishment Manual Vol.I and

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the Railway Board's Circular dated 9.4.97, with all consequential benefits. Further the respondents be directed to protect the pay of the applicant till he is absorbed on the post of Driver.

2. Notice of the O.A. was given to the respondents who have filed their detailed reply to which no rejoinder was filed.

3. From the pleadings of the parties, it appears that the applicant was initially appointed as substitute Casual Labour and was given temporary status and was engaged as Beldar. Thereafter, the applicant was posted as Truck Driver for a period of 12 months which was subsequently extended from time to time up to June 1996. The term of the work-charge post of Driver came to an end on 5.7.1996 and consequently, the applicant apprehending his reversion filed an O.A. which was dismissed by the Tribunal. The order of the Tribunal was upheld by the Hon'ble Rajasthan High Court. Thereafter, the impugned order Annex.A/1 was passed by the respondents. The applicant has prayed for quashing of the same.

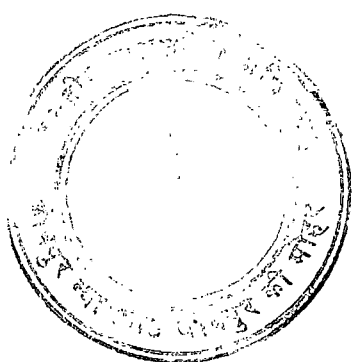
4. We have heard the learned counsel for the parties and have gone through the case file. The learned counsel for the applicant has argued that the applicant had worked for almost 12 years on the post of Driver and, therefore, he is entitled to be regularised on the same. On the other hand, it was argued by the learned counsel for the respondents that applicant was in fact utilised on the post of Driver and mere continuance of the applicant on that post for number of years, does not

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confer any right on the applicant. The applicant holds lien on the Group 'D' post and consequently, he can await his turn in his cadre for promotion on the higher post. The learned counsel for the respondents has relied upon Full Bench Orders of the Tribunal passed in Ram Lubhaya and Others and Aslam Khan's cases.

5. We have considered the rival arguments. In our opinion, the principles enunciated in these two judgements squarely covers the matter. In Ram Lubhaya's case, it was held as under :-



"Railway servants hold lien in their parent cadre under a division of the Railways and on being deputed to Construction Organisation, and there having promoted on a higher post on ad hoc basis and continue to function on that post on ad hoc basis for a very long time would not be entitled to regularisation on that post in their parent division/office. They are entitled to regularisation in their turn, in the parent division / office strictly in accordance with the rules and instructions on the subject."

6. In the another Full Bench decision rendered by the Jaipur Bench of Tribunal, in O.A. No. 57 of 1996 dated 30.10.2000, Aslam Khan Vs. Union of India, it was held as under :-

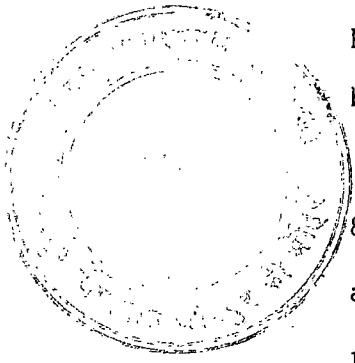
"A person directly engaged on Group-C post (Promotional post) on casual basis and has been subsequently granted temporary status would not be entitled to be regularised on Group-C post directly but would be liable to be regularised in the feeder cadre in Group-D post only. His pay which he drew in the Group-C post, will however be liable to be protected."

7. From the principles as mentioned above, it can be concluded that the applicant cannot claim regularisation on the post of Driver simply because he has been working

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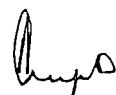
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since number of years. In fact, in this case, the applicant was initially engaged as Casual Labour and was granted temporary status on the post of Beldar. In a case, where person was directly appointed on the Group 'C' category post as a Casual Labour, was even not held entitled for regularisation as per the above rule. The case of the applicant is on the weaker footings. For regularisation on the post of Driver, the applicant is not entitled to as he was in fact engaged only in Group 'D' category as a Casual Labour and later on made to hold Group 'C' post again on casual basis, hence the relief of regularisation in Group 'C' category as prayed by him, cannot be granted. However, on reversion from the post of Driver to that of Beldar, his pay deserves to be protected and fixed in terms of the principles laid down by the Full Bench in Aslam Khan's case.

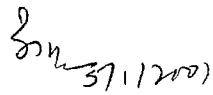


8. The O.A. is, therefore, partly accepted. The applicant's claim relating to regularisation is hereby rejected. It is further observed that the pay of the applicant on account of reversion deserves to be protected and is hereby ordered to be protected as per the rules and circulars of the Railway Board on the subject.

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



(A.P.NAGRATH)  
Adm.Member



(A.K.MISRA)  
Judl.Member

Received  
Deaver  
7/2/2001

per  
G. J. S.  
8-2-2001