

प.प्र. (प्रतिवा) विभागकी क निम्न २२ नम्बर निम्नलिखित

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O.A. No. : 94/1998

Date of Order : 05.10.1999

1. Hari Kishan S/o Shri Khayali Ram By caste Sharma, aged about 44 years, at present working as T.T.E., Nr. Railway at Hanumangarh (Bikaner Divn.)
2. Rameshwar Kachchwaha S/o Shri Suraj Mal, by caste Rajput, aged about 47 years, at present working as T.T.E., Northern Railway at Bikaner.
3. Mishri Babu S/o Shri Khem Chand by caste Meghwal (S.C.) aged about 44 years, at present working as T.T.E., Northern Railway at Bikaner.

.. Applicants.

O.A. NO. : 95/1998 ✓

Mohd. Yunus, S/o Shri Inam Ul Haq, by caste, Mohemmadan, aged about 48 years, at present working as T.T.E., Northern Railway at Hanumangarh (Bikaner Division)

..Applicant.

Versus

1. Union of India through its General Manager, Northern Railway, Head Quarters, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, D.R.M. Office, Bikaner.
3. The Divisional Personnel Manager, Northern Railway, D.R.M., Office, Bikaner.
4. The Divisional Commercial Manager, Northern Railway, D.R.M. Office, Bikaner.

..Respondents.

Mr. S.N. Trivedi, counsel for the applicant-s,

Mr. S.S. Vyas, 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 :

Controversy involved in these applications is the same and relief sought is also the same and, therefore, both these applications are disposed of by the single order.

2. Applicants, in these applications under section 19 of the Administrative Tribunals Act, 1985, have prayed for a direction to the respondents to regularise the services of the applicants and accordingly they may be deemed to be regularised in service as Ticket Collector with effect from the date of their initial appointment i.e. 13.10.1983 with all consequential benefits.

3. Applicants joined the respondent department as Class IV employee during the year 1982-83. Respondents department conducted selection test for 24 posts of Ticket Collectors against the class IV promotion quota and the applicants had qualified in the written examination. This selection was challenged in the Hon'ble High Court of Jodhpur through various petitions and the Hon'ble High Court passed the following interim order :-

"Heard learned counsel appearing for the parties. The learned Advocate for the Respondents No. 1 to 3 suggested that five posts will be kept vacant to accommodate the petitioners in case the writ petition succeeds. Meanwhile respondents No. 4 and 5 Shri Sunil Dutt and Kishore Kumar may be allowed to be appointed on adhoc basis. The learned counsel for the petitioner agree to the proposal.

As such, Respondents No. 1, 2 and 3 are directed to keep five posts vacant. They are allowed to make the appointments of Respondent No. 4 and 5 (Shri Sunil Dutt and Kishore Kumar) on adhoc basis. The stay order dated 18.1.1983 is modified to the extent mentioned above." 9

4. The applicants were, thereafter, appointed as Ticket Collectors in the grade of Rs. 260-400 vide respondents letter dated 12.10.1983. Writ Petitions filed before the Hon'ble High Court of Rajasthan were subsequently transferred to the Central Administrative Tribunal, Jodhpur Bench and were registered as T.A. No. 193/1986, 128/1986 and 12/1990. The Tribunal vide its order dated 4.8.1992 while quashing the selection of Ticket Collectors observed as under :-

"In view of the above discussion, we allow the applications partly and quash the impugned selection made pursuance of the Divisional Railway Manager, Bikaner, notification dated 22.7.1982 and direct that fresh selection may be made within a period of 6 months in accordance with the instructions of the Railway Board. Since the vacancies pertaining to the years 1979 to 1982 are concerned, only the employees who were eligible for appearing in the selection test at that time and had submitted the re-quisite applications shall be allowed to appear in the test and separate panels shall be prepared for the vacancies of each year from out of those who qualify in the test and were eligible for selection during the particular year. The applicants and those respondents who had been working on the posts of Ticket Collectors on adhoc basis shall not be reverted until they are given at least 3 opportunities to appear in the test, excluding the impugned test which is being quashed, except as a measure of punishment under the Railway Servants (Discipline and Appeal) Rules, 1968 or unless it becomes necessary to revert them for appointment of selected candidates, Parties to bear their own costs."

5. Subsequently some junior persons to the applicants were promoted to the post of T.T.E. and being aggrieved, the applicants filed OA No.84/1992, Mishri Babu & Ors. versus Union of India and Ors. which was decided on 17.5.1993 and it was directed by the Tribunal as under :-

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" We have heard counsel for the parties. The learned counsel for applicant has produced a copy of the order dated 4.8.1982 passed by the Jodhpur Bench of the Tribunal in the Writ Petitions which were subsequently transferred to the Tribunal u/s 20 of the A.Ts. Act and registered as T.A. No. 128/86, 193/86 and 12/90. In that order selections made in pursuance of the D.R. M., Bikaner notification dated 22.7.82 were quashed and it was directed that fresh selections may be made within a period of 6 months in accordance with the instructions of the Railway Board. Learned counsel for applicant states that panel dated 24.1.88 had been prepared in pursuance of D.R.M., Bikaner's notification dated 22.7.82. Since selection panel has now been quashed, the officials who were appointed T.Es. out of this and treated as adhoc in terms of High Court's interim orders are now on the same footing as applicants, who were appointed Ticket Collectors on adhoc basis. The respondents have admitted in para 5(iii) of their reply that the applicants were senior in Class IV. They would, therefore, normally be entitled to be considered for adhoc promotion as T.Es. and subsequently as T.T.Es. earlier than those who were junior to them in Class IV. Since those persons who were parties in this CA, we cannot quash their orders of adhoc promotion. However, we direct that in view of the order of the Tribunal dated 4.8.92 mentioned above, they should review their order of adhoc promotions to the post of T.T.Es. issued vide Annex. A/1 within a period of three months of this order and consider the claims of the applicants also for promotion to the post of T.T.Es. on adhoc basis in order of their seniority in Class IV. If the applicants are found suitable for promotion as T.T.Es. they shall also be promoted and their promotions will be deemed to be effective from the date their juniors have been promoted, in case those juniors are still continuing on the post of T.T.Es, with all consequential benefits. Parties to bear their own costs. "

6. Thereafter, the respondents vide their order dated 24.8.1992 promoted the applicants to the post of T.T.E. on adhoc basis. In the year 1992 duly selected Ticket Collectors filed Special Leave Petition in Hon'ble the Supreme Court against the judgement of the Tribunal dated 4.8.1992. Hon'ble the Supreme Court allowed the petition as under :-

" Learned counsel for respondents 5 to 8 has urged that respondents 5 to 8 have been working as adhoc ticket collectors since 1983 and have been further promoted. If the adhoc appointment of Respondents 5 to 8 is dehors the order of the Tribunal, we are not concerned with such appointment. If, however, their appointment is pursuant to the Tribunal's order and is continued under the order of this Court

of 14th of September, 1992, directing status quo to be maintained, then they will have to face the consequences of the outcome of this litigation. In any event, even if they continue in service as adhoc ticket collectors they cannot get seniority over regularly selected employees such as the applicants. The appeal is, therefore, allowed with costs and the impugned order of the Tribunal is set aside. The Writ Petition /applications of respondents 5 to 8 are dismissed."



7. In the light of above observations and judgements we do not find any merit in these applications. Their case has duly been considered by the Apex Court and rejected. We, therefore, do not find any justification for interfering with the action of the official respondents.

8. The O.As. are accordingly dismissed with no order as to costs.

SD/-
(GOPAL SINGH)
ADM.MEMBER

प्रमाणित सही प्रतिलिपि

07-10-92

अनुमान अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
नया दिल्ली

SD/-
(A.K.MISRA)
JUDL.MEMBER