

In the Centfal Administrative Tribunal, Jodhpur Bench,
Jodhpur

Date of order : 5.2.2001

ORIGINAL APPLICATION NO. 147/1998

Vijender Kumar Mathur S/o Shri Pitember Behari Mathur,
by caste Mathur, aged about 44 years, R/o Quarter No.
21, Sector 9, Near Petrol Depot, Hanumangarh Junction,
Permanent employee as a Call Boy and now working as
Telephone Clerk at Hanumangarh Junction.

... Applicant.

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. Senior Section Engineer (Loco), Northern Railway,
Hanumangarh Junction.
3. Divisional Mechanical Engineer, Northern Railway,
Bikaner.

... Respondents.

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CORAM :

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

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

.....

Mr. Y.K.Sharma

Counsel for the applicant.

Mr. R.K.Soni

Counsel for the respondents.

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O R D E R

Per Hon'ble Mr.A.K.Misra :

The Applicant had filed this O.A. with the prayer

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that the respondents be directed to consider the case of the applicant for regularisation in service on the post of Telephone Clerk (for short 'TPC'), in the grade Rs. 950-1500 (RPS), as per service rules. The respondents be further directed to pay to the applicant arrears on account of difference between the pay of TPC and the pay already drawn.

2. Notice of the OA was issued to the respondents who have filed their reply to which no rejoinder was filed by the applicant.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. It is alleged by the applicant that he was engaged as a Casual Labour and was absorbed for regular services on 4.7.78 as a Call Boy in the grade of Rs. 750-940. However, his services were being utilised by the respondents as TPC in the office of respondent No.2 since 4.7.78. But, the applicant is being paid salary as a Call Boy only. The applicant made a representation to regularise his services as TPC but the respondents have not considered his case. Thereafter, the applicant filed an OA seeking a direction for his regularisation but the OA was disposed of with the direction that the applicant should make a representation which should be decided by the respondents by a speaking order. However, the respondents have rejected the representation of the applicant. Hence, this O.A.

5. The respondents have filed their reply in

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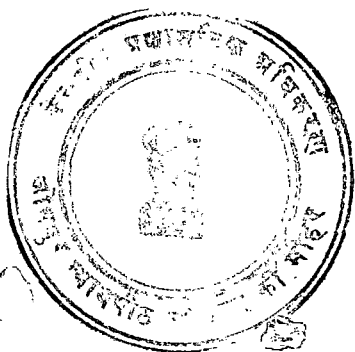
which it is stated that the applicant is working as a Call Boy in the substantive capacity but he was never utilised as TPC neither there is any ^{Post bearing} such nomenclature. It is also stated by the respondents that the employees working in the Loco Shed who attend the telephones normally write their destination as Telephone Clerk but that does not mean that their services were being utilised as Telephone Clerks. There was no order utilising the applicant as TPC, therefore, he cannot claim regularisation on the post of TPC.



6. We have considered the rival arguments and the facts of the case. There is nothing on record to show that the applicant was ever appointed as TPC. The documents Annexs. A/2 to A/7, are the extracts of daily book maintained in control in which the applicant was described as TPC but the extracts of daily book, are not the conclusive proof of the fact that applicant was utilised as TPC continuously for number of years. The post of Clerk is a 'C' category post whereas the applicant is only working as a Call Boy in substantive capacity in group 'D' post. Even if, for argument sake, it is held that the applicant was being utilised on the post of TPC ^{for number 9 years by the respondents} ~~then also he cannot claim regularisation on that post as the group 'C' post is a promotion post.~~

7. The controversy relating to regularisation on the group 'C' post on direct appointment, has been settled by the Full Bench of the Central Administrative Tribunal by its order dated 30.10.2000 ~~rendered~~ in OA No. 57/96 Aslam Khan Versus Union of India and Others in which it was held as under :

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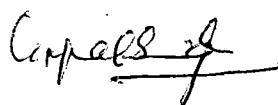
"A person directly engaged on Group-C post (Promotional Post) on casual basis and has been subsequently granted temporary status would not be entitled to be regularised on Group-C post directly but would be liable to be regularised in the feeder cadre in Group-D post only. His pay which he drew in the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



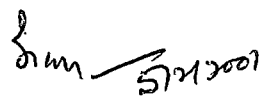
8. In this case, the applicant was engaged as a Casual Labour and was regularised on that post also. His claim of having been utilised as a TPC, has been challenged by the respondents. The applicant has also not been able to prove the same. Consequently, the applicant's claim bears no merit.

9. In view of the above facts and the position as laid down by the Full Bench, the Original Application of the applicant claiming regularisation as a Telephone Clerk, deserves to be dismissed and is hereby dismissed.

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



(GOPAL SINGH)
Adm. Member



(A.K. MISRA)
Judl. Member

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Army
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Reg II and IM destroyed
in presence on 21-3-02
under the supervision of
section officer () as per
order dated 19-12-07

Section officer (Record)