

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

JODHPUR BENCH, JODHPUR.

OA No.226/99.

Date of order : 16.03.2001

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Sewa Ram S/o Shri Har Chand, aged about 40 years,
employed as Caner under Dy. Chief Engineer(Construction),
1, Northern Railway, Jodhpur, Resident of New Railway
D.S. Colony, Q.No.2170, Jodhpur.

....APPLICANT

V E R S U S

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

... RESPONDENTS

Mr. Y.K. Sharma, counsel for the applicant.
Mr. Kamal Dave, counsel for the respondents.

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Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(per Hon'ble Mr. Gopal Singh)

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In this application under Section 19 of Administrative Tribunals Act, 1985, applicant Sewaram has prayed for setting aside the impugned order dated 7.6.99(Annexure-A/1) and for a direction to the respondents to fix the lien of the applicant as Caner in the grade of Rs. 3050-4590.

2. Applicant's case is that he was initially engaged as casual labour Caner on 16.3.83 under Inspector of Works(C) Suratgarh. He was granted temporary status as Khalasi in the grade of Rs. 196-232 w.e.f. 1.4.84. The temporary status granted as Khalasi was revised for the post of Caner grade Rs. 210-270 w.e.f. 1.4.84. It is the contention of the applicant that the grade of the Caner is Rs. 950-1500 but the applicant is being paid wages in the grade of Rs. 800-1150 and the applicant has not been regularised on the post of Caner though he has been working on the said post since 1983. Representations of the applicant in this regard were of no avail.

3. The applicant approached this Tribunal earlier vide OA No.51/95. This application was disposed of by this Tribunal on 10.2.98 directing the respondents to consider the case of the applicant for regularisation in a group 'C' post, in terms of Railway Board's circular dated 9.4.97. While complying with the directions of the Tribunal as aforesaid the claim of the applicant has been rejected vide respondent's letter dated 7.6.99(Annexure A/1) on the ground that there is no vacancy in 25 per cent promotee quota in the artisan category at that moment. It was also stated that as and when there will be vacancy in artisan category against 25 per cent promotee quota applications will be called for from eligible staff and if applicant applies for the same, he will be considered subject to fulfilment of other conditions. Feeling

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aggrieved the applicant has filed this OA.

4. Notices were issued to the respondents and they have contested the application. In their reply, it has been pointed out by the respondents that there is no work of Caner at present for the applicant and in fact, there is no regular post of Caner available in the whole Construction Organisation. It has also been pointed out that the applicant has been engaged as Caner erroneously, the applicant could be considered for absorption in a group 'D' post and his case for absorption in a group 'D' post is under consideration. It has, therefore, been averred by the respondents that the application is premature and is liable to be dismissed.

5. We have heard the learned counsel for the parties and perused the record of the case carefully.

6. The question of regularisation of officials working in Construction Organisation on group 'C' post was recently considered by the Full Bench of the Central Administrative Tribunal, at Jaipur in OA No.103/1997 and it was held as under:-

"Railway servants hold lien in their parent cadre under a division of the Railway and on being deputed to construction organisation, and there having promoted on a higher 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."

In reply to reference whether such persons should be regularised in Construction Division from the date of continuously working on ad hoc basis, treating the post on which he is working as a regular post since the post continue to exists

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for about 15 years, notwithstanding the contention of the respondents that the Construction Organisation is a temporary organisation and persons re-appointed against work charged posts the full bench answered the same in the negative.

7. In the light of the observations, we are of the view that the applicant can only be regularised on a group 'D' post in his parent Division. The case for regularisation of the application against a group 'D' post is already under consideration with respondent department and therefore, at this stage our interference in the matter is not called for.
8. The OA is accordingly dismissed with no order as to costs.

Gopal Singh

(Gopal Singh)
Admn. Member

B.S. Raikote

(B.S. Raikote)
Vice Chairman