

Central Administrative Tribunal
Jodhpur Bench, Jodhpur

Date of order : 13.2.2001

- 1. O.A.NO. 266/99
- 2. O.A.NO. 154/2000

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Churu Ram S/o Shri Lachhu Ram aged about 52 years, R/o C/o Sharif Provision Store, Luni Jn. Distt. Jodhpur, at present employed on the post of Permanent Way Mistry, in the office of Junior Engineer (C), Northern Railway, Luni Jn.

Mr. J.K. Kaushik, for applicant. Applicant in OA 266/99

Versus

- 1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
- 2. Divisional Railway Manager, Northern Railway, Ferozpur Division, Ferozpur.
- 3. Dy.Chief Engineer (C-II), Northern Railway, Jodhpur.
- 4. Chief Administrative Officer (Construction), Northern Railway, Hqrs. Office, Kashmiri Gate, Delhi-6.

.... Respondents in OA 266/99.

Mr. Kamal Dave, for respondents.

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Kalu S/o Shri Bhorilal aged about 48 years Resident of C/o Section Engineer P/Way (C), Jodhpur, at present employed on the post of Mate in the office of Dy. Chief Engineer (Construction)-I, Jodhpur, Northern Railway.

Mr. J.K. Kaushik, for applicant. Applicant in OA 154/2000

Versus

- 1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
- 2. Divisional Railway Manager, Northern Railway, Ambala Division, Ambala.
- 3. Dy.Chief Engineer (Construction-I), Jodhpur Division, Northern Railway.

... Respondents in OA 154/2000

Mr. Kamal Dave, for respondents.

CORAM :

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Hon'ble Mr. A.K. Misra, Judicial Member
Hon'ble Mr. A.P. Nagrath, Administrative Member

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

In both these cases, the controversy involved is common and the relief claimed by the respective applicants is also common, therefore, both these O.As are disposed of by one order.

2. OA NO. 266/99

In this case, the applicant has prayed that the respondents be directed to regularise the services of the applicant on the post of Permanent Way Mistry from the date of his working on that post as per the policy laid down by the Railway Board, with all consequential benefits. It is alleged by the applicant that he was initially engaged as Gangman and was regularised on the post of Gangman w.e.f. 15.1.77. Earlier his services were being utilised on the post of Store Issuer. Vide letter dated 14.6.83, the applicant was posted as Clerk and thereafter he was promoted to the post of Permanent Way Mistry vide letter dated 13.12.85. The applicant is said to be continuing on the said post and is claiming regularisation.



3. O.A.NO. 154/2000

In this case, the applicant has prayed that the respondents be directed to regularise the services of the applicant on the post of Gang P.Mate in Group 'C' as per the Railway Board's Circular dated 9.4.97 with all consequential benefits. It is alleged by the applicant that he was initially engaged as a Casual Mate w.e.f. 15.5.77. However, the respondents have stated that he was a daily

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rated casual mate in the construction organisation and was thereafter granted temporary status w.e.f.1.1.83. The applicant was screened in the year 1986 and was ordered to be absorbed as Chainman in Group 'D'. The applicant was allowed due fixation in the grade of Rs. 950-1500. However, he was regularised as Chainman w.e.f. 1.4.88 in the pay scale of Rs. 750-940. The claim of the applicant is that he has been continuing on the post of Mate since then, therefore, he deserves to be regularised.

4. We have heard the learned counsel for the parties and have gone through the case files.

5. In both these cases, the applicants were initially engaged as Casual Labours. Their services were utilised on Group 'C' posts on adhoc temporary basis and they are being continued on the said post. However, they were regularised on the group 'D' post as mentioned in the facts. It is contended by the applicants that because of the long working on the group 'C' post, they are entitled to be regularised on the said posts in terms of the Railway Board's Circular dated 9-4-97. On the other hand, the learned counsel for the respondents has submitted that in view of the order rendered in Aslam Khan's case in OA No. 57 of 1996 dated 30th October, 2000, the applicants are not entitled to be regularised on group 'C' post directly. They are required to be regularised in the feeder cadre in group 'D' only. It was argued by the learned counsel for the respondents that this order was passed relying on the Hon'ble Supreme Court's decision in Union of India and Another Vs. Motilal and Others



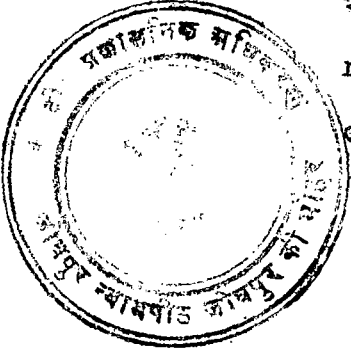
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and, therefore, the applicants are not entitled to any relief.

6. We have considered the rival arguments. In our opinion, the decision rendered by the Full Bench of the Central Administrative Tribunal in Aslam Khan Versus U.O.I. & Ors. , O.A.No. 57/1996 dated 30.12.2000, will govern the controversy in hand. In this case, 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."

In this case, the decision of the Hon'ble Supreme Court rendered in Motilal's case, was relied upon. In Motilal's case it was held by the Hon'ble Supreme Court as under :-



"11. that a daily-wage or casual worker against a particular post when acquires a temporary status having worked against the said post for specified number of days does not acquire a right to be regularised against the said post. He can be considered for regularisation in accordance with the rules and, therefore, so far as the post of mate under Railways is concerned, the same has to be filled up by a promotion from the post of gangman and Keyman in Class IV subject to employees passing the trade test."

Keeping in view the aforesaid two decisions, the irresistible conclusion would be that the applicants cannot claim regularisation on Group 'C' posts on the basis of long adhoc temporary service. However, they are entitled to be regularised in their feeder cadre which

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according to the respondents has been granted to them. In Aslam Khan's case it was held that their pay is required to be protected when they are regularised on the feeder cadre post. Therefore, both these O.As are required to be disposed of in terms of the judgment in Aslam Khan's case.

7. The O.A. are, therefore, partly accepted. The prayer of the applicants for regularisation in OA No. 266/99 on the post of Permanent Way Mistry and in OA No. 154/2000 on the post of Gang P Mate, in terms of the Railway Board's Circular dated 9.4.97 is hereby rejected. However, ^{to} ~~due~~ regularisation ^{of the applicants} in Group 'D' posts, their pay is required to be protected in case they are made to hold a Group 'D' post.

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



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(A.P.NAGRATH)
Adm.Member

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(A.K.MISRA)
Judl. Member

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Re-Dr Kirk
22/20

Part II and IM destroyed
in my presence on 21/307
under the supervision of
section officer (1) as per
order dated 19/2/02

Section officer (Record)

R/Copy
22/6/12
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