केन्द्रीय प्रशासनिक अधिकरण (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निःशुल्क प्रति

OA 330/99

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

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Date of Order : 24.1.2001.

I. O.A. No. 308/1999

Chuhru 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.

... Applicant

Vs

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

... Respondents

II. O.A. No. 319/1999

Uuginder Singh S/O Shri Gurucharan Singh aged about 49 years, resident of C/O Section Engineer (Works) Pali-Marwar Jn. Northern Railway, at present employed on the post of Clerk in the office of Dy. Chief Engineer (Construction), Northern Rly. Jodhpur.

... Applicant

Vs

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

... Respondents

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III O.A. No. 330/1999

Tej Singh S/O Shri Pati Ramji, aged about 40 years, resident of Bank Colony C/O Sh. Bhanwar Singh Soda, Near MH Hospital, Jodhpur, at present employed on the post of MCC in the office of Dy. Chief Engineer Construction-I, Jodhpur, Northern Raly.

... Applicant

Vs

1. Union of India, through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Ambala Division, Ambala.
3. Deputy Chief Engineer (Construction-I) Northern Railway, Jodhpur.
4. The Chief Administrative Officer (Construction), Northern Railway, Kashmiri Gate, Delhi-6.

... Respondents

IV. O.A. No. 331/1999

Vikram Singh S/O Shri Laxmi Narain, aged about 38 years, resident of Opp. Air Forces Mess, Gali No.2, Sheravilash Colony, Jodhpur, at present employed on the post of Clerk in the office of Dy. Chief Engineer (Construction -I) Northern Railway, Jodhpur.

... Applicant

Vs

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

... Respondents

Mr. J.K. Kaushik, Counsel for the Applicants (in all OAs)
Mr. Kamal Dave, Counsel for the Respondents (in all OAs)

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CORAM :

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

O_R_D_E_R

(PER HON'BLE MR. GOPAL SINGH)

In all these applications, the controversy involved as also relief sought is almost the same, therefore, these applications are being disposed of by this common order.

2. Brief particulars of the applicants are as under :

I. In O.A. No. 308/99, the applicant Chuhru Ram, was initially appointed as casual store Issuer on 12.7.1971. He was absorbed on the post of Gangman on 15.1.'77 in Ferozpur Division of the Northern Railway. He worked on the post of Storeman from 15.12.'80 to 14.6.'83 in the scale of Rs.210-270 and thereafter he was promoted as a Clerk in the scale of Rs.260-400 vide letter dated 14.6.83. He was further promoted as Permanent Way Mistry (for short 'PWM') in the scale of Rs.380-560. in the Construction Organisation w.e.f. 13.12.85. The respondent department had ordered the selection for the post of PWM vide letter dt. 19.7.99. The applicant has also applied for the said selection, but to no avail. The applicant therefore, filed OA No.266/99 seeking a direction to the respondents to consider the regularisation of the applicant on the post of PWM. The said O.A. is still pending. The respondents now vide their letter dated 05.8.'99 have repatriated the applicant to his parent Division on the post on which he is holding a lien. This order dated 05.8.199 (Annexure A/1) has been impugned in this application, and the applicant has prayed for quashing the same. In other words, the applicant is seeking regularisation on the pos of PWM (a Group 'C' post) in the Construction Organisation.

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II. Applicant, Juginder Singh in O.A. No.319/99, was initially appointed on the post of Choukidar in Delhi Division of Northern Railway on 23.5.'77 and was put to work in the Construction Organisation. He was employed on the post of Storeman during the period from 30.9.'77 to 05.6.'89. He was further promoted to the post of Clerk scale Rs.950-1500 vide letter dated 05.6.'89. The applicant is holding a lien on the post of Choukidar in Delhi Division. The respondents had vide their letter dated 30.7.1999 (Annexure A/1) ordered repatriation of the applicant to his parent Division on the post of which he holds a lien. This order of repatriation has been challenged by the applicant, and the applicant has prayed for regularisation on the post of Clerk in terms of Railway Board Circular dated 11/15.2.'91 and 09.4.'97. In effect the applicant is resisting going back to his permanent post in his parent Division and is seeking regularisation on Group 'C' post.

III. In O.A. No.330/99, the applicant, Tej Singh was initially appointed as Khallasi on 20.6.77 in Bikaner Division of the Northern Railway. He was promoted as Storeman w.e.f. 21.11.'79 in the Construction Organisation. He has been working on the post of Storeman/MCC in the scale of Rs.950-1500 since 1992. The applicant has prayed for his regularisation on the post of Clerk (a Group 'C' post) in terms of Railway Board Circular dated 11/15.2.'91 and 09.4.'97. The respondents department have, however, ordered reversion of Clerks working on ad hoc basis to Group 'D' post vide their letter dated 09.11.'99 (Annexure A/1). This order has been challenged by the applicant. In effect, the applicant is resisting his reversion in Groupt 'D' post and prays for regularisation in a Group 'C' post.

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IV. In O.A. No.331/99, the applicant, Vikram Singh, was initially appointed as Casual Khallasi in Jodhpur Division on 09.8.'79. He was discharged on 22.12.'79, but was re-engaged on 30.12.'87. He was regularised on a Group 'D' post of Gangman and his lien has been fixed in the Engineering Department of Jodhpur Division. He was promoted on ad hoc basis as Clerk vide order dated 12.2.'92 in the Construction Organisation and he is continuing on the said post. He is seeking regularisation on the post of Clerk in terms of Northern Railway Headquarters letter dated 14.12.'94. The respondents have, however, denied him regularisation on the post of Clerk on the ground that as per the promotion channel, his advancement is in the line of Keyman and further as mate at due turn in Engineering Class IV/III cadre, vide their order dated 21.5.'98 (Annexure A/1). This order dated 21.5.98 has been challenged by the applicant.

3. In the counter, the respondents have stated that the applicants were appointed on Group 'C' posts in the Construction Organisation purely on ad hoc basis and as a local temporary arrengement, and further that their appointment on ad hoc basis would not confer any right upon them to be regularised on a Group 'C' post. They can only be regularised on a Group 'D' post in their parent Division. In these circumstances, the respondents have submitted that the applicants have no case and all the applications deserve to be dismissed.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. It is not in dispute that the applicants were appointed on a Groupt 'D' post and they hold a lien on a Group 'D' post in their respective parent Division. If that

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is so, they would earn their promotion as per their turn in their own line. Only because their services were utilized on a Group 'C' post in the Construction Organisation purely as a local temporary arrangement, that would not confer on them any right for regularisation on a Group 'C' post. In these circumstances, the applicants are not entitled to any relief as prayed for. Moreover, the Full Bench judgement rendered by the Jaipur Bench of the Tribunal in O.A. No. 57/96 dated 30.10.2000 (Aslam Khan Vs UOI & Ors.), also declares a law that in case of regularisation of a person appointed on temporary or casual basis on promotional post (Group 'C') and if he wants to be regularised, he is entitled to be regularised only on lower post, i.e., Group 'D' post only. On the analogy of this law declared by the Full Bench (supra) also, we find that there is no marits in these application. Accordingly, we pass the order as under :

"All the above four Applications are dismissed, but in the circumstances without costs."

Sd/-
(GOPAL SINGH)
ADM.MEMBER

Sd/-
(B.S. RAIKOTE)
VICE CHAIRMAN

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प्रमाणित सही प्रतिलिपि

अनुभाग अधिकारी (न्यायिक) 9/2/01
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर

Received
7/2/2021

Rec'd 7/2

Part II and III destroyed
in my presence on 26.3.07
under the supervision of
section officer ( ) as per
order dated 19/3/07

Section officer (Record)