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Central Administrative Tribunal

Jodhpur Bench, Jodhpur

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Date of order : 8.2.2001

1. O.A. NO. 187/99

Mathura S/o Shri Genda aged about 49 years R/o C/o
Dy. C. E (C)-1, Northern Railway, Jodhpur, at present
employed on the post of Mate in the office of PWI (C)
Pali, Northern Railway.

Applicant.

Vs.

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



Respondents.

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2. O.A. No. 188/99

Ganga Dher S/o Shri Giarsa, aged about 47 years,
R/o C/o D.S.K. (P), Construction, Rai-Ka-Bag,
Northern Railway, Jodhpur, at present employed on
the post of Mate in the office of Dy. C.E.(C)-II,
Jodhpur, Northern Railway.

Applicant.

Vs.

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi,

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2. Divisional Railway Manager, Northern Railway.
Delhi Division, Delhi.

3. Dy. Chief Engineer (Construction-II), Jodhpur,
Jodhpur, Northern Railway.

4. Chief Administrative Officer (Construction),
Northern Railway, Kashimiri Gate, Delhi-6.

Respondents.

3. O.A.NO. 190/99

Dalu S/o Sri Lachchu, aged about 43 years, R/o
C/o Dy. C.E. (C)-III, Northern Railway, Jodhpur,
at present employed on the post of Mate in the
office of PWI (C), Pali, Northern Railway.

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. Dy. Chief Engineer (Construction-III),
Jodhpur, Northern Railway.

4. Chief Administrative Officer (Construction),
Northern Railway, Kashimiri Gate, Delhi-6.

Respondents.

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CORAM :

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

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

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Mr. J.K.Kaushik, Counsel for the applicants.
Mr. Kamal Dave, Counsel for the respondents.

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

In all these cases, the relief claimed by the applicants and the controversy involved, is common, therefore, they are disposed of by one single order.

2. From the facts of the case, it appears that the applicants were appointed as Casual Mates in the years 1976 and 1978 and were granted temporary status in the years 1984, 1985 and 1986. These applicants have since been working on the post of Mate in the Construction Organisation and thereafter, have been fixed in the scale of Rs. 950-1500. It is claimed by the applicants that the Circular, dated 9.4.97, issued by the Railway Board entitles them for regularisation. It is the common case of the applicants that they have been working on the post of Mate since almost 22 to 23 years and, therefore, all the applicants are claiming regularisation on the post of Gang Permanent Mate in Group 'C' in terms of the Circular dated 9.4.97 issued by the Railway Board.

3. All the three applications have been contested by the respondents. It has been stated in the reply that applicants are not entitled to regularisation on the post of Mate, which is a Group 'C' post, in terms of the Circular issued by the Railway Board. It is also stated by the respondents that in spite of their long working, the claim of the applicants is not tenable in view of the principle laid down by the

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Hon'ble Supreme Court in Moti Lal's case. It is also stated by the respondents that the applicants have been regularised on the Group 'D' post ~~and they can~~ only be promoted on the post of Mate as per rules and as per their seniority position. The claim of the applicants is ill founded and deserve to be rejected.

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

5. There is no controversy in respect of the fact that the applicants were directly appointed on the post of Mate on casual basis and thereafter, they have been put to work on that post of Mate for 22 to 23 years. All the three applicants have been considered for regularisation and have been regularised on Group 'D' post, therefore, their cases for regularisation shall have to be regulated in terms of the rules, as held by the Hon'ble Supreme Court. Hon'ble the Supreme Court in Union of India and Others versus Moti Lal and Others, reported in 1996 (33) ATC Page 304 has held 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.

12. In this view of the matter the Tribunal was not justified in directing regularisation of the respondents as mates."

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6. The Principle laid down by Hon'ble the Supreme Court was followed by the Full Bench of the Central Administrative Tribunal, Jaipur, in O.A. No. 57/1996 -decided on 30th October, 2000, (Aslam Khan Versus Union of India and Others), and the Full Bench has held that such persons are only entitled for protection of pay and not for regularisation, Long years of working notwithstanding.

7. The case of the present applicants is squarely covered by the principle laid down by the Hon'ble Supreme Court described above. In view of this, the applicants are not entitled to get the relief of regularisation on the post of Gang Permanent Mate. However, on their being reverted back to their Group 'D' post as per their regularisation, they are entitled to the protection of pay. The Original Applications deserve to be disposed of in these terms and are accordingly disposed of on the same lines.

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

Gopal Singh
(GOPAL SINGH)

Adm. Member

31/11/2001
(A. K. MISRA)
Judl. Member

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Part II and III destroyed
in my presence on 21-3-07
under the supervision of
section officer (1) as per
order dated 10-1-2007

Section officer (1) 