

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 125/2013

Jodhpur this the 17th day of September, 2014.

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Judl. Member

Yaru Khan s/o Shri Mahbub Khan, aged 44 years, Parcel Porter under Railway Contractor at Railway Station Pokran, North Western Railway, Pokran, District Jaisalmer r/o Village Gomat, Tehsil Pokran, District Jaisalmer.

.....Applicant

(By Advocate: Shri Vijay Mehta)

Versus

1. The Union of India through General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Jodhpur

.....Respondents

(By Advocate : Ms. K.Parveen)

ORDER (Oral)

In this application filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:-

The applicant prays that the action of the respondents in depriving the applicants from appointment and regularization may kindly be quashed. The respondents may kindly be directed to forth with appoint and regularize the employment of the applicant on the post of parcel porter or any other Group D post at least from the dates when similarly situated contractual parcel porters were appointed with all consequential benefits. Any other order, giving

relief to the applicant may also be awarded to the applicant with costs.

2. Brief facts of the case, as stated by the applicant, are that the applicant has been working as Parcel Porter at Pokran Railway Station through Contractor since the year 1990. He has also been issued certificate dated 7.7.2011 by the Station Master, Pokran mentioning that the applicant is working regularly and efficiently as Parcel Porter at Pokran without any break and he has also been issued identity card by the railway authorities. The attendance of the applicant has been marked by the Contractors in the register maintained by them. The applicant has further stated that the Hon'ble Apex Court in the case of National Federation of Railway Porters, Vendors and Bearers vs. Union of India and Ors. in 1995 Supp (3) SCC 152 and in the case of A.I.Railway Parcel and Goods Porters Union vs. Union of India and ors. reported in [2003 (99) FLR 203] has held that the work performed by the Parcel Porters is of perennial nature and therefore, such Parcel Porters who are working through Contractors are required to be regularized as Railway Parcel Porter in Railways. The Hon'ble Apex Court further held that Parcel Porters of longer period shall have preference to other Parcel Ports in the matter of appointment and regularization. The applicant has also referred the judgment of the CAT-Principal Bench, New Delhi in OA No.1154/2011 and other related OAs vide order dated 28.2.2012 wherein the respondents were directed to regularize the services of Parcel Porters. According to the applicant, after the above judgments, the respondents have appointed many Parcel Porters working through Contractors in Railway and regularized their services. To the knowledge of the applicant, Shri Bhanwaroo Khan and Shri Tar Mohmmad have been appointed vide Ann.A/8 who were employed through Contractor much after the employment of the applicant. Further, the applicant was medically examined and found fit, but he has not been appointed as Parcel Porter. The

applicant requested the respondent No.2 several times to give him similar treatment with reference to above named two persons, but he has not been appointed. Therefore, he has filed this OA praying for the reliefs as mentioned in para-1 above.

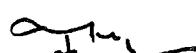
3. Though, the respondents have filed reply to the OA but no specific reply to the averments made by the applicant has been given. In the reply, the respondents have submitted that keeping in view all the directives, five posts of Parcel Porters were sanctioned by the competent authority in this Division and against these posts, five Parcel Porters have been appointed. It is further submitted that in order to regularize the Parcel Porters, a list of such porters report of ALC containing the working period was accepted by the Hon'ble Supreme Court. The list does not have the name of the applicant. The names of S/Shri Bhanwaroo Khan and Tar Mohammed are in the list and as such, they have been considered for regularization. Therefore, the applicant is not entitled to any relief.

4. Heard both the parties. Counsel for the applicant submitted that despite directions of the Hon'ble Apex Court and the CAT-Principal Bench, the applicant has not been appointed as Parcel Porter, therefore, he has been treated unequally with reference to Shri Bhanwaroo Khan and Tar Mohammad who are similarly situated and junior to the applicant. Counsel for the applicant further submitted that the applicant has been discharging his duties to the entire satisfaction of the railway authorities and he is medically fit and 44 years of age; thus, he is entitled for appointment on the post of parcel porter or any Group-D post.

5. Counsel for the respondents submitted that action of the respondents is perfectly just and proper being in accordance with rules and the applicant is not entitled to any relief.

6. Considered the rival contention of both the parties. From the reply of the respondents it is not clear as to on what basis the case of the applicant has not been considered by the respondent-department. When similarly situated persons have been given benefit of regularization in the light of the judgment of the Hon'ble Apex Court, I find no reason for denying the similar benefit to the applicant, if he is otherwise found eligible. Therefore, the respondents are directed to consider the case of the applicant in the light of the judgment of the Apex Court on the basis of which cases of other two similarly situated persons namely Shri Bhanwaroo Khan and Shri Tar Mohammed have been considered and pass appropriate order within a period of six months from the date of receipt of a copy of this order.

7. The OA stands disposed of in above terms with no order as to costs.



(JUSTICE K.C.JOSHI)
Judicial Member

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