

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.25/2003

Friday, this the 17th day of September, 2004.

CORAM;

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR H.P.DAS, ADMINISTRATIVE MEMBER

T.D.Jayaraman,
Store Issuer,
O/o the Dy. CSTE/W/Office,
Southern Railway,
Podanur-641 023. - Applicant

By Advocate Mr Varghese Prem

Vs

1. Union of India,
rep. by its General Manager,
Southern Railway,
Chennai.
2. Deputy Chief Signal & Telecommunication,
Engineer(Con),
Southern Railway,
Podanur-641 023.
3. R.Balasubramanian,
Technician/Signg/Gr-III,
O/o the Dy.CS&TE(Con),
Southern Railway,
Podanur.
4. R.Ravindranathan,
Technician/Sigg/Gr.III,
O/o the Dy. CS&TE(Con),
Southern Railway,
Podanur. - Respondents

By Advocate Mr Sumathi Dandapani(for R.1 & 2)

By Advocate M/s Santhosh. & Rajan(for R.3&4)

The application having been heard on 17.9.2004, the Tribunal
on the same day delivered the following:

M

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant commenced service as Casual Labourer on 18.12.1979. He was absorbed as Khalasi in Group'D' with effect from 28.4.1989. While so, he was promoted as Store Issuer on ad hoc basis by order dated 26.3.1991 and has been working on the post ever since 1.4.1991 continuously on ad hoc basis. His grievance is that despite his making several representations and approaching this Tribunal in O.A.646/1999, his claim for regularisation on the post has been turned down and he has not been given the correct fixation of pay. The applicant has therefore, filed this application for the following reliefs:

- i) To call for the records leading to A-2 and quash it.
- ii) To direct the 1st respondent to re-fix the pay of the applicant at Rs.1050/- as on 1.4.91 in scale Rs.950-1500 and also direct to grant the arrears with 18% interest.
- iii) Quash A-6 order in so far as it absorbs the juniors in Group'C' or in the alternative to grant the applicant benefits on a par with respondents 3&4.
- iv) Direct the respondents 1 and 2 to absorb the applicant to the Store Issuer's post mentioned in A-3 and A-4.



It has been alleged in the application that the applicant was qualified the trade test and found fit to hold the post of Store Issuer, that he had been from 1.4.1991 onwards continuously holding the post of Store Issuer, that the respondents have taken steps twice by A-3 and A-5 to fill up the post when the applicant submitted his representation for appointment against one of the posts and that the action on the part of the respondents in not considering the applicant for regular appointment is arbitrary, illegal and unsustainable. When the O.A. came up for hearing today, learned counsel of the applicant submitted that the applicant is not now pressing the prayers in sub para (i) to (iii) of paragraph 8 of the O.A. and is confining to the relief regarding direction to the respondents to absorb the applicant on the post of Store Issuer mentioned in A-3 and A-5.

2. The respondents have filed a reply statement and additional reply statement. In view of the statement made by the learned counsel of the applicant that the applicant is not pressing the prayers in sub para (i) to (iii) of para 8, we are confining our attention to the present surviving dispute in this case. Regarding the claim of the applicant for regularisation, it is contended by the respondents that the posts in Construction Organisation are ex-cadre posts, that the applicant who has been appointed only on ad hoc basis has no right for regularisation and that action was taken to call volunteers to be appointed on the post of Store Issuer only on deputation basis and the claim of the applicant for regularisation is untenable.

3. We have gone through the pleadings and other the material placed on record and have heard Shri Ajith Prakash, learned counsel of the applicant and Smt. Sumathi Dandapani, learned counsel of the respondents. That the applicant possess the qualification for appointment to the post of Store Issuer, that he was successfully trade tested and that he has been continuing uninterruptedly on the post from 1.4.1991 efficiently is not in dispute. The contention of the respondents that there is no permanent post as claimed by the applicant to be filled on regular basis is found to be not sustainable in view of what is stated in A-5. It is profitable to quote A-5:

"Sub: Filling up the vacancies in S&T CN Unit/PTJ.

The following posts in the Unit are filled by giving adhoc promotion to some of the existing employees and they are continuing it for a longer time. Since these adhoc promotions cannot be continued for longer periods as per the instructions given by CSTE/Projects, from time to time, it is proposed to fill up the vacancies by regular staff. Hence, please arrange to fill up the following posts from the employees due for promotion in regular channel and posted to this Unit at an early date.

No. of Posts

1. Jr. Engineer (Signal)/II	in scale Rs. 5000-8000	- 1
2. Drivers Gr. II	do Rs. 3050-4500	- 1
3. Store Issuer Gr. III	do Rs. 3050-4590	- 3
4. Ferro Printer	do Rs. 2750-4400	- 1

Sd/-

(R. Bhaskaran) Dy. CSTE/CN/PTJ"

It is evident that while issuing A-5, the intention of the Railway Administration was to fill the post of Store Issuer on a regular basis, for continued adhocism was found not in

✓

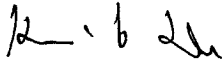
accordance with the extant instructions. Therefore, the contention of the respondents that there is no regular post of Store Issuer has only to be rejected. As it is not disputed that for the last 13 years, the applicant who possesses the requisite qualification for the post, having been successful in the trade test had been holding the post of Store Issuer and discharging the functions effectively and the attempt of the Railway administration in filling up the post on regular basis had not been successful, we are of the considered view that the action of the respondents in not regularising the service of the applicant on the post is absolutely unjustified. Why the respondents insist on filling up the vacancies only by deputation Without considering eligible persons by promotion is also not understandable. Since the applicant who is qualified and eligible to be appointed to the post has been holding the post for a long time, we are of the view that the respondents should consider his regularisation. Since the applicant has been working for more than 13 years, holding the post as he is qualified and was successful in trade test, we do not find any justification in keeping the applicant only on adhoc basis without regularly appointing him on that post.

4. In the light of what is stated above, we dispose of this application directing the respondents to consider the applicant for regular appointment to the post of Store Issuer for which he is qualified, trade tested and has been working without any blemish for the last 13 years. Orders regarding

✓

regular appointment, if the applicant is not found otherwise unsuitable, shall be issued within a period of two months from the date of receipt of copy of this order. There is no order as to costs.

Dated, the 17th September, 2004.



H.P.DAS
ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN

trs