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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 517 of 1991

Asharfi Lal & Others . . . . . Applicants

Versus

Union of India & Others . . . . . Respondents

Hon'ble Mr. Justice U.C.Srivastava, VC

Hon'ble Mr. K. Obayya, Member (A)

( By Hon'ble Mr. Justice U.C.Srivastava, VC)

All the applicants were initially appointed as casual labour in class IV employment in the Construction Organisation of North-Eastern Railway between the years 1975 to 1980 and they continued to work as such and it appears they were given adhoc promotion in class III post in the Construction Organisation of North Eastern Railway. They were promoted between 1985 to 1987 except for a few persons who were promoted in 1980 or 1981. As they fulfilled the educational qualifications of class III posts, i.e. skilled workman. The grievance of the applicants is that the last few years they have been working in the class III posts and have gained sufficient experience, but they are not being regularised. Although, the Railway Board's letter dated 10.1.1985 sanctioned regularisation in class III and not in class IV from where these workers had been promoted and the Railway Administration has also not acted upon its own letter which it has to issue in pursuance of directions given by the Supreme Court in the case of Prabalai Rai Vs. Union of India which in turn followed yet another decision given by the Supreme Court in the Case of Indra Pal Yadav Vs. Union of India, thereafter, a scheme was framed. Vide letter dated 20.11.1985, which was issued by the Railway Board after the Supreme Court Decision directed that the combined seniority list of open line project casual labours in

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3.G. Construction project casual labour is to be prepared division wise, department-wise and category wise and on the basis for the same laid down, and with these departments, the seniority list was prepared according to category wise. According to the applicant, the applicants were entitled for regularisation but they have not been regularised and that's why they have approached the tribunal.

2. The respondents have resisted the claim of the applicants pleading that the B.G. Construction casual labour, of various branches will be considered for regularisation and absorption after screening by the open line division/units on the basis of combined seniority depending upon the total number of days of service put in by the candidate in open line organisation (maintenance) and in B.G. construction organisation as all the posts in project are work charged post for the fixed period. Regarding the educational qualification some of them do not fulfil the criteria. They were initially engaged as un-skilled casual Khalasi and subsequently they were promoted as semi-skilled casual labour on adhoc basis and thereafter they were again promoted as skilled casual Khalasi purely on adhoc basis and tentative arrangement. They are to be considered first for regularisation in class IV and when their turn comes it is only thereafter, the question of their consideration for any other posts can be considered and two of such casual labours have already been considered for regularisation in class IV and they have been consequently regularised. According to the Railway Board


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letter issued in pursuance of the Supreme Court decision, list has been prepared of those who are in employment on the project, and the promotion/regularisation will be done in accordance with rules. The facts as stated, make it clear that the applicants have been working before 1.1.1981 and as such their cases should have been considered for regularisation in accordance with scheme laid down by the Railway Administration. So far the regularisation of class IV of the applicants is concerned, in view of the facts, that the applicants have gained experience and have been working since long in Class III posts, the Railway Administration should have been done it by this time, but they have not done. After regularisation of class IV, obviously, their cases for regularisation in Class III posts will also be considered in accordance with principles laid down in pursuance of the Supreme Court Decision. Accordingly, the respondents are directed to consider the case of the applicants within a period three months for regularisation in class IV posts and thereafter, they will consider their claim for regularisation in class III posts in accordance with law and in the light of direction given by the Railway Board and the scheme framed by the Railway Administration. As the applicants have worked since long and the Railway Administration has taken work from them as such, there is no question of throwing any of them out of job. With these observations, the application is disposed of finally. No order as to costs.

  
Member (A)

  
Vice-Chairman

Lucknow Dated: 9.12.1992.

(RKA)