

(75)

Sh. A.G. Sharma-

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the 28th day of April, 2000.

O.A. no. 650/92

HON. MR. D.C.VERMA, MEMBER(J)

1. Jagdish son of Ram Dass.
2. Deep Chand son of Baij Nath.
3. Shyam Bihari son of Setu Prasad
4. Ram Asrey son of Chotey Lal.
5. Vijay Singh son of Ambika Singh.
6. Bharat Lal son of Ram Samuj
7. Cheda lal son of Surji.
8. Ram Kishore son of Hari Dass
9. Ram Kumar son of Ghaseete
10. Mewa lal son of Ghaseete
11. Durga Bux Singh son of Lalta Bux Singh.
12. Mathura Prasad son of Jiya Lal.
13. Ram Naresh son of Shiv Ram
14. Ganga Prasad son of Mahavir
15. Shyam Sunder son of Nanha Prasad.
16. Deen Dayal son of Thakur Prasad
17. Mewa lal son of Cheda lal
18. Ashok Kumar Chauhan son of Lalla Singh Chauhan.
19. Jamuna prasad son of Shambhu Dayal
20. Chandra Pal son of Ram Sewak
21. Shiv Lal son of Chatra Pal.
22. Mool Chand son of Agnu
23. Radhe Lal son of Parsadi
24. Ram Shanker son of Nanha Prasad.
25. Shyam Kumar son of Ganga Prasad.
26. Ram Bilas son of Babu Mangal.
27. Radhe Shyam son of Ram Ratan
28. Ramesh Chandra son of Shiv Dayal.
29. Ram Krishan son Aganoo
30. Om Prakash son of Ram Ashrey.
31. Shyam Kishan son of Ganga Pd.

All residents of C/o Shri Chandra Pal yadav, House
No. 170/145, Kasimpur Pakri Alambagh, Lucknow.
Applicants.

By Advocate Name. Sh. A.K. Shukla
versus

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

2. Divisional Superintendent, Northern Railway,
Hazratganj, Lucknow.

3. Station Superintendent, Northern Railway,
Charbagh, Lucknow.

Respondents.

By Advocate Shri A.K. Chaturvedi.

ORDER

31 applicants claim to have worked as
Substitute Porter on various dates with broken
periods. Vide this O.A., the applicants have

claimed regularisation in service on the post of
Porter after preparing a seniority list of
Substitutes. It has also been claimed that the
applicant be treated in continuous service with all
consequential benefits and payment of regular
salary.

2. The respondents' case is that only six
applicants namely applicant No. 3 Shyam Bihari,
applicant No. 6 Bharat Lal, applicant No. 21 Shiv
Lal, applicant No. 23 Radhey Lal, applicant No. 28
Ramesh Chandra and applicant No. 29 Ram Krishan
have worked as substitutes under respondent No. 3,
but they have not worked for 120 days continuously.

LOSING
As per the respondents' case these substitutes are
not railway servants, hence they have no right to
claim regularisation unless they are screened,
empanelled and absorbed. In respect of other
applicants, the respondents case is that they have
never worked or were ^{ever} engaged as substitutes under
the respondents.

3. Heard the learned counsel for the respondents and perused the documents on record; As per service particulars, filed by some of the applicants, with their Supplementary Affidavit, about 14 applicants viz. applicants No. 1, 7, 8, 12/18, 20, ^{to} 25, 27 and 31 have worked for various periods which ~~apparently~~ as per statement/more than 240 days in each case. The applicant No. 2 Deep Chand, applicant No. 4 Ram Asre, applicant No. 5 Vijay Singh, applicant No. 9 Ram Kumar, applicant No. 10 Mewalal, applicant No. 11 Durga Bux Singh, applicant No. 19 Jamuna Prasad, applicant No. 22 Mol Chand applicant No. 24 Ram Shankar and applicant No. 30 Om Prakash have not filed any document in support of their working period. The working of these 10 applicants is not admitted by the respondents. In the absence of any document in favour of these 10 applicants, none of these 10 applicants have any claim for the relief made in the application.

4. One document of service particulars in the name of Ram Bilas son of Babulal has been filed whereas the applicant in the case is Ram Bilas son of Babu Mangal who is at serial No. 26. It is not clear whether the certificate filed in the name of Ram Bilas son of Babulal is of applicant No. 26 or is of some other person.

5. The applicants have filed a decision of this Bench in O.A. 618/92 Inre Bhailal and 33 others vs. ~~Union of India~~ Union of India and others. While deciding the said O.A., the Tribunal directed the respondents to offer an opportunity to 4 applicants of the said O.A. to produce their relevant documents before the competent authority and to make an enquiry and therafter in case it is found that all or any of the four applicants therein were duly engaged and have completed the required number of working days, they be granted temporary status and be considered for regularisation from the

date from which their juniors, if any were regularised.

Similar relief has been claimed in respect of the present applicants.

6. As has been seen above, 10 applicants viz. applicant No. 2,4,5,9,10,11,19,22,24 and 30 have no case. Their claim therefore, stands dismissed. Working of applicant No. 3,6, 23,28 and 29 is admitted by the respondents. It is, however, not admitted that ~~many~~ of these applicants have worked for the required number of days. In respect of other applicants, enquiry is required to be made to find out whether the service particulars filed by these applicants are genuine or not. In view of these facts and considering the earlier decision, in the same terms, the respondents are directed to offer an opportunity to these 21 applicants to produce their relevant documents before competent authority who may make enquiry, get the cases of these applicants examined and in case it is found that all or any of these 21 applicants were duly engaged and have completed the required working days, they be granted temporary status and be considered for regularisation from a date from which their juniors, if any were regularised. If regularisation is made from a back date, the applicant shall not be entitled for back wages except the benefit of seniority which they may get for purposes of regularisation. The wages shall be admissible if any of these applicants are engaged, only from the date of engagement. The enquiry aforesaid shall be completed by the respondents within a period of two months. The result of the enquiry shall also be communicated to the applicant. The O.A. in respect of applicants 2,4,5,9,10,11,19,22,24 and 30 is dismissed. In respect of other applicants, the O.A. is decided as per directions given above. Costs easy.

Lucknow; Dated: 28.4.2000

ACCT NO. 52/1
MEMBER (J)
25/4/2000
625/4/2000