

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No.40/86.
Tr. Application No.41/86.
Tr. Application No.42/86.
Tr. Application No.43/86.
Tr. Application No.44/86.

1. Shri: Srinivas Singh,
Rly. Quarter,
N.H. No.9,
Bavan Chawl, Thakurli,
Thana District.
2. Shri B.D.Divekar,
Gymme Baug,
Chandrabai Yadav Chawl,
Near Tisgaon,
Gram Panchayat Office,
Kalyan.
3. Shri H.N.Swamy,
Joshiwada Kasar Hat,
Opp. Vaisya Mandir Hall,
Kalyan.
4. Shri Ashok K.Ambavane,
ALPA Society,
A - 9 2nd Floor,
Mulund (East),
Bombay - 400 018.
5. Shri Manohar Shivram Bhosle,
RB/2/8/17, 2nd Floor,
Railway Qtrs.,
Sion Koliwada,
Bombay-37.

.... Applicants.

V/s.

1. The Union of India Owing and
Administering the Central
Railway through the General
Manager, Central Railway
Bombay V.T.
2. R.K.Jain,
Divisional Manager,
Central Railway,
Bombay V.T.

.... Respondents.

Coram: Vice-Chairman, B.C.Mathur,
Member (J), M.B.Mujumdar.

Oral Judgment:

[Per M.B.Mujumdar, Member (J)]

Dated: 28.10.1986

By this judgment we are disposing of Transfer
Application Nos.40 to 44 of 1986, because the point
involved is the same.

2. The applicants had filed Writ Petitions in the High Court of Judicature at Bombay in 1932 and they are transferred to this Tribunal under section 29 of the Administrative Tribunals Act, 1985.

3. The applicants in Transferred Application Nos.42 of 1986 (Shri H.N.Swamy) and 44 of 1986 (Shri M.S.Bhosle) are present and we have heard them. The applicants in other cases are not present. Their advocate is also not present. We could have dismissed their applications for default under Rule 15 of the Central Administrative Tribunals (Procedure) Rules, 1985, but the facts are not in dispute nor complicated and hence we are proposing to decide all the cases on merit.

4. The applicants were appointed as volunteers on hourly basis in pursuance of a scheme evolved by the Respondents. According to the scheme some persons ^{were} to be selected for popular stations for sale of tickets from the spare windows which were available. It was to be ensured that the necessary procedure for payment to the staff should be followed. The volunteers appointed under this scheme were to be utilised for the sale of tickets at the windows during rush period. Their services were not to be utilised for a period of less than one hour and for a period of more than 4 hours in a shift. The terms and conditions were as follows:

1. The scheme of Mobile booking clerks will be open to son/daughters dependents of Railway employees and Retired Rly. employees. They will be paid on honorarium of Rs.2/- per hour per clerk for 4 to 8 hrs a day according to the needs of the stations.
2. The period of work will not be less than one hour or more than 8 hours on any working day.

3. A security deposit of Rs.100/- will be taken from each Mobile Booking Clerk which will be refunded when his services are terminated.
4. The Mobile Booking Clerk will abide by the local instructions given by SMS, HCCs at station.
5. The services of the Mobile Booking clerk will be terminated by giving a day's notice for reasons of inefficiency, improper working and behaviour or when the Railway Administration desires to suspend or abolish the scheme.
6. The Mobile clerks are not the railway employees and as such they will not be entitled to any other benefits other than the payment of honorarium basis.

There is no dispute that the applicants were appointed under the above scheme and they are working under that scheme since long.

5. The applicants have prayed in the petitions that the respondent should be directed to treat them as Railway Servants who have completed more than 240 days service continuously and to continue them in service with all the benefits as are available to the temporary Railway Employees.

6. In the petitions the applicants have quoted some sections of the Indian Railway Act for pressing their claim for declaring them to be Railway Servants. But all the applicants were appointed on the terms and conditions which we have quoted above. According to the last term it was specifically made clear that they were not Railway Employees and they would not be entitled to any ^{other} benefits other than the payment on honorarium basis. The question of declaring them to be regular servants of the railways would have arisen if they would have been initially appointed as Railway Servants either on temporary basis or on

ad-hoc basis. The scheme was formulated for the benefit of the Children and Dependents of the Railway Employees and retired Railway Employees. From the beginning they are paid on hourly basis. Hence we are not impressed by the plea that they should be declared as Railway Servants and they should be given all the benefits due to a temporary railway servant. Hence in law the applicants will not be entitled to any relief from this Tribunal.

7. We would however, like to mention here that the applicants Shri H.N.Swamy and Shri M.S.Bhosle, according to their say, are recently appointed by the Respondents on regular basis. According to them Shri B.D.Divekar is also appointed like them by the Respondents. But there is nothing on record to show this. From their say it appears that their case is considered favourably by the Respondents.

8. The applicants have also requested in the petitions that the services rendered by them in the past should be taken into consideration for the purpose of seniority, promotion, etc. But they are not entitled to this relief because their initial appointment was as volunteers on hourly basis under a scheme which was specially evolved for the benefit of the children and dependents of employees whether serving or retired from the service.

9. Hence, in law the applicants will not be entitled to any of the reliefs claimed by them in the petitions. Accordingly we dismiss the petitions.

10. We however, feel that many of the Mobile clerks would have gained adequate experience on their job, While they cannot claim any job as a matter of ^{right but} ~~fact~~, since the Respondents have absorbed some of them, like Shri H.N.Swamy and Shri M.S.Bhosle, the Respondents could consider the cases of others as well for absorption on regular basis, if otherwise found suitable.

11. Transfer Application Nos:40 to 44 of 1986 are disposed of accordingly, with no order as to costs.